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8 **AMERICAN ARBITRATION ASSOCIATION**

9 **DALLAS OFFICE**

10 RELIANT ENERGY POWER GENERATION,  
11 INC., et al.,

12 Claimants,

13 vs.

14 CALIFORNIA INDEPENDENT SYSTEM  
15 OPERATOR CORPORATION, et al.,

16 Respondents.

CASE NO. 7119829599

**COMMENTS OF COUNTER-CLAIMANTS AND  
INTERVENORS, SAN DIEGO GAS &  
ELECTRIC COMPANY AND PACIFIC GAS &  
ELECTRIC COMPANY, ON CALIFORNIA  
INDEPENDENT SYSTEM OPERATOR'S  
MOTION TO STRIKE SOUTHERN  
CALIFORNIA EDISON COMPANY'S DEMAND  
FOR ARBITRATION**

17  
18 SAN DIEGO GAS AND ELECTRIC  
19 COMPANY, et al.,

20 Counter-Claimants.

21 vs.

22 CALIFORNIA INDEPENDENT SYSTEM  
23 OPERATOR CORPORATION, a California  
24 Nonprofit Public Benefit Corporation; and  
25 DOES 1-500,

Counter-Respondents.

26 Counter-Claimants and Intervenor, SAN DIEGO GAS & ELECTRIC COMPANY

27 (“SDG&E”) and PACIFIC GAS & ELECTRIC COMPANY (“PG&E”), have expressed their views

1 about Claimant RELIANT ENERGY POWER GENERATION, INC.'s ("RELIANT") and Respondent  
2 and Counter-Respondent CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
3 CORPORATION's ("CAISO") position that they are not entitled to participate in any meaningful  
4 way in a dispute that directly implicates their financial interests. However, CAISO's Motion to  
5 Strike Southern California Edison's ("SCE") Demand for Arbitration and conversations which have  
6 occurred between the parties during the past week, require additional comments from SDG&E and  
7 PG&E on several issues.

9  
10 **A. Failure To Serve SDG&E And PG&E With CAISO's Partial Opposition To  
Their Petition For Intervention.**

11 Until the service upon them of CAISO's Motion to Strike Edison's Demand for Arbitration,  
12 SDG&E and PG&E were completely unaware that any opposition to their intervention in this  
13 proceeding had been filed. Previously, SDG&E and PG&E have expressed their view that once they  
14 filed Counter-Claims, they became parties to the dispute, entitled to full participation, including  
15 service of all letters and pleadings. This, however, has not been the position of the American  
16 Arbitration Association ("AAA"), which has maintained that until a new party becomes an  
17 intervenor, information about the case may not be disclosed.

18  
19  
20 Regardless of which view is correct, it cannot possibly be correct that objections to an  
21 intervention would not be served upon the party who intervened! A true objection (which CAISO's  
22 admittedly would not be) would have engaged SDG&E and PG&E in a process before an arbitrator to  
23 determine their status – how can it be that they would not even be made aware of this?

24  
25 It is understood that, generally, arbitration through the AAA is a private process. However,  
26 this policy has no application to proceedings before CAISO. The tariffs require publication of

27 / / / /

28 / / / /

1 documents on CAISO's public website. Further, as the parties have already learned in this matter, it  
2 is the publication on the website which triggers action by anyone involved in the dispute.

3  
4 Thus, it is certainly inequitable and nonsensical to allow AAA procedures to interfere with the  
5 rights of intervenors to proper notice of objections to their intervention.

6 **B. SDG&E And PG&E's Status As Intervenors.**

7 Given CAISO's failure to make a substantive objection to SDG&E, PG&E and SCE's  
8 Petitions for Intervention, they have been intervenors for quite some time. In fact, in its Partial  
9 Objection to Intervention, apparently filed with AAA on September 9, 1999, it states "The ISO has  
10 no objection to the intervention of PG&E, SDG&E or Edison." Its "partial objection" is really in the  
11 nature of affirmative defenses to claims made by each of the three intervenors. For reasons unknown  
12 to SDG&E and PG&E, however, it now appears that CAISO is attempting to evade its failure to  
13 object on a substantive basis when it had an opportunity to do so.  
14

15 In footnote 2 of its Motion to Strike, CAISO baldly asserts that since no arbitrator has yet  
16 been selected and there has been no ruling on SCE's Petition for Intervention, SCE therefore is not an  
17 intervenor. In recent conversations with counsel for CAISO, SDG&E and PG&E have been informed  
18 that it takes this position as to their status as intervenors, as well. This position is unsupportable.  
19

20 Even had CAISO not already conceded the propriety of intervention, its current position is  
21 directly contrary to its own tariff. Supplemental Procedure 3.3 provides for automatic intervention  
22 unless an objection is made within fifteen days. The AAA correctly viewed CAISO's "partial  
23 objection" for what it was, comments upon the intervention and not a substantive objection. As such,  
24 the AAA correctly viewed SDG&E and PG&E as intervenors upon expiration of the fifteen day  
25 comment period. CAISO cannot avoid this result.  
26

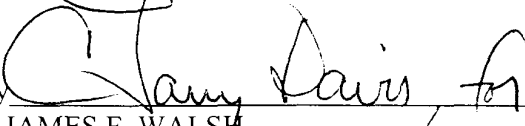
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1 SDG&E and PG&E request that the AAA resolve this issue and that they be allowed the full  
2 participation to which they are entitled.

3 DATED: November 1, 1999.

OFFICE OF THE GENERAL COUNSEL

4  
5 By  \_\_\_\_\_

6 JAMES F. WALSH  
7 BETH EAGLESON  
8 Attorneys for Counter-Claimant  
SAN DIEGO GAS & ELECTRIC COMPANY

9 DATED: November 1, 1999.

PACIFIC GAS AND ELECTRIC COMPANY

10 STUART K. GARDINER  
11 Attorney for Counter-Claimant  
12 PACIFIC GAS AND ELECTRIC COMPANY  
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**AMERICAN ARBITRATION ASSOCIATION  
DALLAS OFFICE**

**Title of Case (Abbreviated):**

***Reliant Energy, et. al. v. California Independent System Operator Corporation, et. al.***

**Attorneys Name and Address:**

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**Hearing Date-Time-Dept:**

**Case Number:**

**DECLARATION OF SERVICE VIA FACSIMILE and U.S. MAIL**

I, TERESA L. GONZALEZ, declare that: I am over the age of eighteen years and not a party to the action; I am employed in, or am a resident of the County of San Diego, California; where the mailing occurs; and my business address is 101 Ash Street, 12th Floor, San Diego, California, 92101-3017. I further declare that I am readily familiar with the business practice of collection and processing of correspondence via U.S. Mail, pursuant to which practice the correspondence will be delivered via Facsimile and/or U.S. Mail this same day in the ordinary course of business. I caused to be served via facsimile and/or U.S. Mail the following document(s): **COMMENTS OF COUNTER-CLAIMANTS AND INTERVENORS, SAN DIEGO GAS & ELECTRIC COMPANY AND PACIFIC GAS & ELECTRIC COMPANY, ON CALIFORNIA INDEPENDENT SYSTEM OPERATOR'S MOTION TO STRIKE SOUTHERN CALIFORNIA EDISON COMPANY'S DEMAND FOR ARBITRATION** by placing a copy thereof in a separate envelope for each addressee:

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American Arbitration Association  
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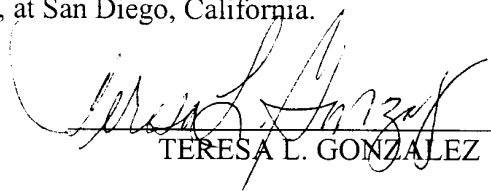
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(Via U.S. Mail)

I then sealed each envelope and sent via U.S. mail, and placed each for collection and mailing on November 1, 1999, at San Diego, California, following ordinary business practices.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 1, 1999, at San Diego, California.

  
TERESA L. GONZALEZ