



September 14, 2001

Julia Moore, Esquire
Swidler Berlin Shereff Friedman, LLP
The Washington Harbour
3000 K Street, NW, Suite 300
Washington, D.C. 20007-5116

Dear Ms. Moore:

This letter addresses certain data responses propounded upon the Cogeneration Association of California and the Energy Producers and Users Coalition ("CAC/EPUC") by the California Independent System Operator Corporation ("CAISO") on September 7, 2001. As a preliminary matter CAC/EPUC object to any data request that seeks information or documents protected by the attorney-client privilege or attorney work product privilege. At this time CAC/EPUC is unaware of any responsive materials that are privileged.

With regards to specific data requests, CAC/EPUC provides the following objections:

ISO-CAC/EPUC-1: For each individual member of CAC and EPUC that serves behind-the-meter Load, please list the entity that provided stand-by service for the years 1998, 1999, and 2000.

CAC and EPUC are trade organizations and do not have data pertaining to individual members. CAC/EPUC cannot produce information within the custody and control of others. This request seeks individual end-use customer information that is outside the scope of the proceeding, is not relevant to the subject matter of the pending proceeding, and is not likely to lead to the discovery of admissible evidence.

ISO-CAC/EPUC-2: For each individual member of CAC and EPUC that serves behind-the-meter Load, please provide the following, in MW, by generating facility for the years 1998, 1999, and 2000.

- (a) The name plate rating of the on-site Generating Unit(s);
- (b) The actual Generation by month;
- (c) The month peak demand of the behind –the-meter Load;
- (d) The monthly energy usage of the behind-the-meter Load
- (e) The amount of energy consumed by the behind-the-meter Load by month under standby tariffs.

This request seeks information that is outside the scope of the proceeding, is not relevant to the subject matter of the pending proceeding, and is not likely to lead to the

discovery of admissible evidence. Moreover, the information sought is commercially sensitive, requires an unduly burdensome compilation, and appears to be propounded for the sole purpose of harassment. In addition CAC/EPUC are trade organizations and do not have data pertaining to individual members. CAC/EPUC cannot produce information within the custody and control of others.

ISO-CAC/EPUC-3: *For each individual member of CAC and EPUC that serves behind-the-meter Load, in MWh and listed separately for each year, for 1998, 1999, and 2000, please provide the number of hours each on-site Generating Unit was off-line by month, including identifying whether the outage was planned or forced.*

This request seeks information that is outside the scope of the proceeding, is not relevant to the subject matter of the pending proceeding, and is not likely to lead to the discovery of admissible evidence. Moreover, the information sought is commercially sensitive, requires an unduly burdensome compilation, and appears to be propounded for the sole purpose of harassment. In addition CAC/EPUC are trade organizations and do not have data pertaining to individual members. CAC/EPUC cannot produce information within the custody and control of others.

ISO-CAC/EPUC-13: *Please state (i) the megawatt hours of energy sold to the California PX or to a Utility Distribution Company by each individual member of CAC or EPUC during each month of calendar years 1999 and 2000; (ii) the variable costs of producing such energy; and (iii) the revenue received by the member of CAC or EPCU [sic] for such energy.*

This request seeks information that is outside the scope of the proceeding, is not relevant to the subject matter of the pending proceeding, and is not likely to lead to the discovery of admissible evidence. Moreover, the information sought is commercially sensitive, requires an unduly burdensome compilation, and appears to be propounded for the sole purpose of harassment. The safeguards of the protective order are insufficient to protect the sensitive information pertaining to business practices from being disseminated to competitors. In addition CAC and EPUC are trade organizations and do not have data pertaining to individual members. On the contrary, such sharing of cost and revenue data may expose CAC/EPUC and its members to allegations of antitrust violations or price-fixing. CAC/EPUC cannot produce information within the custody and control of others.

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If you have any further questions or concerns, please contact Linda Y. Sherif in the San Francisco Office.

Regards,

/s/

Linda Y. Sherif,
Evelyn Kahl,
Michael P. Alcantar