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May 31, 2001

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

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FEDERAL ENERGY REGULATORY COMMISSION

Re: **California Independent System Operator Corporation**
Docket Nos. ER98-997-000 et al.

Dear Secretary Boergers: *ER98-1309-000*

Enclosed for filing please find one original and fourteen copies of the Joint Statement of Procedural History in the above captioned proceeding.

Two additional copies of the filing are also enclosed. Please stamp the additional copies with the date and time filed and return them to the messenger.

Respectfully submitted,

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Counsel for the California Independent System
Operator Corporation

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DEPT. OF THE UNITED STATES OF AMERICA
 BEFORE THE
 FEDERAL ENERGY REGULATORY COMMISSION

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 FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation)
)
) Docket Nos. ER98-997-000
) ER98-1309-000
)

JOINT STATEMENT OF PROCEDURAL HISTORY

**To: The Honorable Jacob Leventhal,
 Presiding Administrative Law Judge**

Pursuant to the instructions of the Presiding Judge, the California Independent System Operator Corporation ("California ISO" or "ISO"), on behalf of the briefing parties in this proceeding,¹ submits this Joint Statement of Procedural History.

PROCEDURAL HISTORY

On December 9, 1997, the ISO filed a Participating Generator Agreement ("PGA") with Midway Sunset Cogeneration Company ("Midway Sunset"). The Commission assigned the filing Docket No. ER98-997, and noticed it on December 23, 1997. On January 16, 1998, Southern California Edison ("Edison") moved to intervene in that docket. On December 30, 1997, the ISO filed an PGA with Texaco Exploration and Production Inc. ("Texaco").² The Commission assigned the filing Docket No. ER98-1309 and noticed it on January 14, 1998. On January 30, 1998, Edison moved to

¹ The briefing parties consist of the ISO, the Cogeneration Association of California, Southern California Edison Company, and Commission Trial Staff.

² The Texaco facility at issue here is identified in the PGA and has been referred to in various pleadings and testimony in this proceeding as the Texaco North Midway Cogeneration Project.

intervene in that docket. In an order issued on February 25, 1998, the Commission accepted for filing a number of ISO agreements filed in various dockets, including the Midway Sunset and Texaco PGAs, and set them for hearing.³ The Commission also ordered that the Chief Administrative Law Judge convene a prehearing conference to determine the appropriate course of this proceeding and to establish a procedural schedule. *California Independent System Operator Corp.*, 82 FERC ¶ 61,174 (1998). That prehearing conference was held on March 17, 1998, and on March 19, 1998, the Chief Administrative Law Judge issued an order consolidating Docket Nos. ER98-997 and ER98-1309 with other dockets concerning the ISO's *pro forma* PGAs, which were filed with the Commission on December 9, 1997 in Docket No. ER98-992-000. The Chief Judge also granted CAC's motion to intervene in Docket No. ER98-992-000, which was made at the March 17 prehearing conference.

On September 1, 1998, the ISO filed the prepared direct testimony of Deborah A. LeVine in the consolidated dockets. CAC filed the direct testimony of James A. Ross on October 20, 1998. In that testimony, CAC asserted that the ISO should establish a PGA specific to QF generators.

On November 6, 1998, Commission Staff proposed severing the dockets involving PGAs for QFs from the remainder of the PGA docket. Staff suggested that the procedural schedule be revised while informal negotiations continued between the ISO and CAC concerning a QF-specific PGA so that the next round of testimony would be filed by the ISO in response to the issues raised in CAC's October 1998 Testimony. On November 18, 1998, the ISO filed a formal motion to sever the dockets involving PGAs

for QFs from the remaining PGA dockets. On November 19, 1998, the Chief Administrative Law Judge granted the ISO's motion to sever, and on that same date, the Presiding Judge established a procedural schedule that allowed the ISO to work with interested parties to develop a QF-specific PGA, and stated that if any milestones relevant to that process were not met, then the parties would continue under an alternate schedule beginning with the ISO's submission of testimony responsive to the arguments raised in CAC's October 1998 testimony, to be followed by the submission of testimony by CAC, and concluding with a formal hearing on the QF-PGA issues. The consolidated *pro forma* PGA proceedings were resolved by a negotiated settlement, which was approved by the Commission on February 24, 2000. On August 13, 1999, the Commission's Chief Administrative Law Judge appointed a Settlement Judge in these severed proceedings.

On March 1, 1999, the ISO submitted to the Presiding Judge a status report indicating that although the parties continued to engage in efforts to develop a mutually acceptable PGA for QFs, no final agreement had been reached as of the date set forth in the Presiding Judge's November 19 Order. Therefore, the ISO, in accordance with that order, submitted the prepared direct testimony of Michael Dozier on March 15, 1999. On March 17, 1999, the ISO filed a joint motion with CAC to extend the procedural schedule in this proceeding for thirty-six days to provide the parties additional time to pursue settlement discussions. The Presiding Judge granted this motion in an order dated March 19, 1999. Then, on April 27, 1999, the ISO and CAC filed a joint motion requesting that the Presiding Judge suspend the procedural

³ In this Order, the Commission also granted all timely motions to intervene in these various dockets, including Edison's motions to intervene in Docket Nos. ER98-997 and ER98-1309. *Id.*

schedule indefinitely so that the parties could focus on reaching an agreement as to the outstanding issues in this proceeding. The Presiding Judge granted this motion in an order issued on April 28, 1999.

On April 14, 2000, the ISO filed an unexecuted PGA with ARCO CQC Kiln ("ARCO").⁴ On May 5, 2000, CAC filed an intervention in the proceeding. By Order dated June 2, 2000, the Commission accepted the interventions, declined to set the ARCO PGA for hearing, and accepted for filing the unexecuted version of the ARCO PGA subject to the outcome of the instant proceeding. *California Independent System Operator Corp.*, 91 FERC ¶ 61,243 (2000).

On August 11, 2000, the Chief Administrative Law Judge terminated the settlement proceedings in Docket Nos. ER98-997 and ER98-1309. On August 23, 2000, Judge Leventhal was designated as the Presiding Judge for this proceeding, and on September 7, 2000, the Presiding Judge issued a new procedural schedule that called for both parties to resubmit their previously filed testimony, and, as in the procedural order of November 18, 1998, allowed for the submission of another round of intervenor testimony before the filing of Staff testimony, cross-answering testimony, and rebuttal testimony.

Pursuant to this schedule, both the ISO and CAC re-filed their previous testimony on September 18, 2000. CAC then filed direct testimony by James A. Ross on October 3, 2000, and Commission Staff filed its direct testimony on November 9, 2000. Cross-answering testimony was filed on November 29, 2000 by Mark R. Minick and Neil E. Shockey on behalf of Edison, James A. Ross on behalf of CAC, and Roger VanHoy on

behalf of the Modesto Irrigation District ("Modesto").⁵ CAC filed the rebuttal testimony of James A. Ross on December 19, 2000, and the ISO filed the rebuttal testimony of Deborah A. Le Vine, Michael Dozier, and Trent Carlson on December 20, 2000.

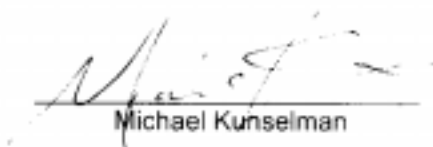
On May 1, 2001, the hearing on this matter was commenced before Judge Leventhal and continued through May 3, 2001.

⁵ In response to motion by Edison, the Presiding Judge ruled that large portions of Modesto's cross-answering testimony should be stricken from this proceeding. Pursuant to that order, Modesto informed the parties and Presiding Judge that it would not offer the remaining portions of that testimony into evidence.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the restricted service list compiled by the Presiding Administrative Law Judge in the above-captioned proceeding.

Dated at Washington, D.C. this 31st day of May, 2001.



Michael Kunselman

