

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

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| San Diego Gas & Electric Company, |) | |
| Complainant, |) | |
| |) | |
| v. |) | Docket No. EL00-95-045 |
| |) | |
| Sellers of Energy and Ancillary Services |) | |
| Into Markets Operated by the California |) | |
| Independent System Operator and the |) | |
| California Power Exchange, |) | |
| Respondents. |) | |
| |) | |
| Investigation of Practices of the California |) | |
| Independent System Operator and the |) | Docket No. EL00-98-042 |
| California Power Exchange |) | |

**SUMMARY OF THE PREAPRED REBUTTAL TESTIMONY OF
EAN O'NEILL ON BEHALF OF
THE CALIFORNIA INDEPENDENT SYSTEM
OPERATOR CORPORATION**

In her Rebuttal Testimony, Ms. Ean O'Neill responds to issues raised by numerous entities and witnesses in this proceeding on the topic of sales of electric energy made pursuant to Section 202(c) of the Federal Power Act.

First, Ms. O'Neill explains that she agrees with the basic analytical framework proposed by Ms. Patterson on behalf of the Commission Trial Staff for assessing whether a transaction was made pursuant to the DOE Order, but notes that a transaction should not automatically be considered eligible for designation as a 202(c) transactions simply because it meets all of the criteria proposed by Ms. Patterson. Ex. No. ISO-21 at 5:1-7:15. Ms. O'Neill states that

only those transactions with respect to which it was clear to the ISO that suppliers were providing energy based on the ISO's request for excess energy pursuant to the terms of the DOE Order should be classified as 202(c) transactions. Ex. No. ISO-21 at 7:3-10.

Next, Ms. O'Neill addresses the contentions of several suppliers that energy sales made to the ISO before the ISO filed the required certification with DOE in order to invoke the provisions of the DOE Order on December 20, 2000 should be considered as made pursuant to Section 202(c). Ms. O'Neill explains that these transactions should not be classified as 202(c) transactions, because the DOE Order was not in effect during these periods, and therefore, the ISO had no ability to request or obtain energy pursuant to the Order at that time. Ex. No. ISO-21 at 8:1-9:7. Ms. O'Neill also explains that transactions made on days after December 20, 2000, but on days for which the ISO did not file a certification, should not be classified as 202(c) transactions for the same reasons. Ex. No. ISO-21 at 10:4-19.

Ms. O'Neill then responds to the contention of several suppliers that their sales of Ancillary Services to the ISO through the ISO's Ancillary Services markets should be considered as made pursuant to the DOE Order. Ms. O'Neill states that these transactions should not, as market transactions, be classified as 202(c) sales for the reasons explained by Ms. Patterson in her Direct Testimony, and because the DOE Order explicitly refers to the obligation to deliver "electric energy." Ex. No. ISO-21 at 11:1-22.

Ms. O'Neill goes on to address the argument that there is no basis for reliance on notations made by ISO operators as a method for identifying DOE transactions. Ms. O'Neill explains that this because method represented a neutral standard, and because of the various reasons why suppliers might have been supplying energy to the ISO during this period, it is the best mechanism for identifying the universe of transactions made pursuant to the DOE Order, absent convincing evidence from suppliers that they were selling with the ISO's recognition that the sale was made pursuant to Section 202(c). Ex. No. ISO-21 at 12:2-14:10.

Next, Ms. O'Neill discusses several reasons why sellers might have been providing energy to the ISO during this period other than because of the existence of the DOE Order. First, Ms. O'Neill demonstrates that high prices throughout California may have been encouraging suppliers to sell to the ISO during this time by pointing to numerous quantities of energy sold to the ISO by entities claiming 202(c) sales on days immediately before and after the DOE Order was in effect, and on days for which the ISO did not invoke the DOE Order through certification. Ex. No. ISO-21 at 14:12-16:9. With respect to LADWP, Ms. O'Neill explains that the sales made to LADWP during this time period were made pursuant to Service Schedule 13, which outlines how LADWP and the ISO will assist each other during emergency situations, rather than the DOE Order. Ex. No. ISO-21 at 17:1-21. Ms. O'Neill also explains that there was a similar mechanism, other than the DOE Order, under which SMUD, MID, and NCPA provided excess energy to the ISO during this period. Ex. No. ISO-21 at 18:1-

19:19. Responding to the contention of Pasadena, Anaheim, and SWP that they provided excess energy to the ISO only because of the existence of the DOE Order, Ms. O'Neill states that these entities, if they had declined to voluntarily provide the ISO with energy during this timer period, could have been dispatched out-of-market by the ISO without the need to rely on the DOE Order because of contractual obligations assumed by those entities in their Participating Generator Agreements with the ISO. Ex. No. ISO-21 at 20:1-21:11.

Ms. O'Neill next discusses why the ISO does not believe that Burbank, Glendale and Riverside did not provide energy to the ISO pursuant to Section 202(c). With respect to Burbank and Glendale, Ms. O'Neill explains that the ISO does not deal directly with those entities, but through their Scheduling Coordinators, who did not represent to the ISO that any of the energy from Burbank or Glendale was being provided pursuant to the DOE Order. Ex. No. ISO-21 at 21:20-22:9. With respect to Riverside, Ms. O'Neill states that the energy provided by Riverside during this time period was uninstructed energy, which could not have been requested by the ISO pursuant to the DOE Order. Ex. No. ISO-21 at 22:11-23:6. Finally, Ms. O'Neill addresses several miscellaneous arguments raised in the testimony of parties on 202(c) issues, Ex. No. ISO-21 at 23:8-25:2, including the argument that the ISO's representations as to the scope of 202(c) transactions made during the time period in which the DOE Orders were in effect conflicts with its present representations as to the scope of those transactions. Ex. No. ISO-21 at 23:8-20.