



prepared.”

By indicating the responses to questions were prepared by “Counsel”, the ISO has satisfied this requirement. It was ISO in-house counsel, in collaboration with attorneys from Swidler Berlin, who prepared these responses. The data requests in question relate to issues present in a separate litigation with which ISO counsel are intimately familiar, and thus it is completely appropriate that Counsel should respond to the questions.

Further, discovery responses providing “Counsel” as the respondent are common in practice before the Commission. The ISO has done this on numerous occasions. To cite just one example, the ISO provided data responses signed by “Counsel” in the Refund Proceeding in Docket No. EL00-95, *et al.* Such responses have been accepted as a matter of course.

NCPA attempts to bolster its argument by stating (without providing any precedent or other support) that the nature of the questions at issue here dictates that “[a]n employee competent to authenticate the response should be required to sponsor” them. Motion at 4. While the ISO does not accept the premise that discovery respondents must be employed by the party for whom they are responding, ISO in-house Counsel *are* ISO employees competent to authenticate the responses, and NCPA has presented no evidence to the contrary.

### III. Conclusion

Because the ISO has responded to the Unanswered Data Requests and has provided a proper respondent for the “Inadequate” Response To Data Requests, NCPA’s Motion should be denied, and no oral argument on this matter is necessary.

Respectfully submitted,

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Date: May 19, 2005

**CERTIFICATE OF SERVICE**

I hereby certify I have this day served the foregoing document on each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Folsom, CA, on this 19<sup>th</sup> day of May, 2005.

/s/ Gene L Waas  
Gene L. Waas