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October 18, 2002

The Honorable Magalie Roman Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

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OFFICE OF THE SECRETARY
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FEDERAL ENERGY
REGULATORY COMMISSION

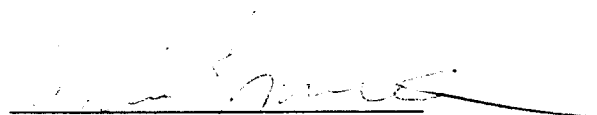
**Re: San Diego Gas & Electric Co., et al.
Docket Nos. EL00-95-045, et al.**

Dear Secretary Salas:

Enclosed for filing are one original and fourteen copies of the Initial Brief of the California Independent System Operator Corporation ("ISO") as to APX Issues, submitted in the above-captioned proceeding. Two courtesy copies of this filing are being provided to Presiding Judge Bruce L. Birchman.

Also enclosed are two copies of the filing to be time and date stamped and returned to our messenger. Thank you for your assistance. Please contact the undersigned if you have any questions regarding this filing.

Sincerely,



J. Philip Jordan
Michael Kunselman
Counsel for the California
Independent System Operator Corporation

Enclosures

cc: The Honorable Bruce L. Birchman
Restricted Service List

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

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

**INITIAL BRIEF OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
AS TO APX ISSUES**

Charles F. Robinson
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Dated: October 18, 2002

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TABLE OF AUTHORITIES

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96 F.E.R.C. ¶ 61,120 (2001)2

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

San Diego Gas & Electric Company,)

Complainant,)

v.)

Docket No. EL00-95-045

**Sellers of Energy and Ancillary Service Into)
Markets Operated by the California)
Independent System Operator Corporation)
and the California Power Exchange,)**

Respondents.)

**Investigation of Practices of the California)
Independent System Operator and the)
California Power Exchange)**

Docket No. EL00-98-042

**INITIAL BRIEF OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
AS TO APX ISSUES**

Pursuant to the procedural schedule adopted in this proceeding, the California Independent System Operator Corporation ("ISO") submits this Initial Brief as to APX Issues.

ARGUMENT

IV. WHAT COMPANY SPECIFIC POLICY ISSUES, NOT ADDRESSED ABOVE, AFFECT THE CALCULATION OF REFUNDS AND AMOUNTS OWING?

B. Automated Power Exchange, Inc.

1. **Should APX be liable for refunds in this proceeding, or should such refund calculation look through APX to its participants?**
- **Proposed Finding - APX is the Scheduling Coordinator and the transacting party in the ISO market, and thus is responsible for amounts allocated to it.**

In his direct testimony, Mr. Bulk, on behalf of APX, testifies that because APX only operated as a “middle man” with respect to transactions made in the ISO’s markets, that APX should not be liable for refunds in this proceeding, and that any refund amounts nominally imposed on APX belong to the entities on whose behalf APX acted as a Scheduling Coordinator. Exh. APX-1 (Bulk) at 5:11-7:19. Mr. Bulk is incorrect. In the July 25 Order,¹ the Commission made clear that refunds and amounts owed and owing, with respect to the ISO markets, are to be determined by rerunning the ISO’s settlements and billing system. July 25 Order at 61,519. That system accounts for obligations through Scheduling Coordinators. Exh. ISO-24 (Gerber) at 5:21-6:9, 6 n.1. APX participated in the ISO markets as a Scheduling Coordinator during the Refund Period,² and it is APX with which the ISO had privity of contract, not the entities that APX represented in its role as a Scheduling Coordinator. Exh. ISO-37

¹ *San Diego Gas & Electric Co. v. Sellers of Energy and Ancillary Services, et al.*, 96 FERC ¶ 61, 120 (2001).

² The Refund Period consists of the period from October 2, 2000, through June 20, 2001.

(Gerber) at 122:22-123:3. Therefore, the Presiding Judge should find that, regardless of any issues concerning the allocation of refund amounts owed by APX to its participants, APX is primarily liable for all refund amounts owed with respect to transactions for which it acted as the Scheduling Coordinator in the ISO markets. *Id.*

2. If this proceeding is to render findings concerning the APX participants, how should the refunds and amounts owed and owing for such participants be determined?

The ISO takes no position on this issue. The issue of which customers of APX should ultimately be responsible for payment of refunds is an issue strictly between APX and its customers. Exh. ISO-37 (Gerber) at 123:3-5.

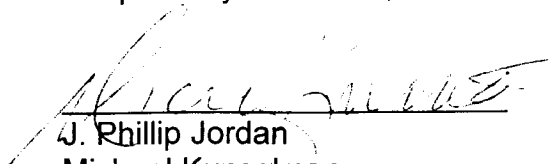
3. Has APX provided data to allow participants to determine the amounts owed and owing?

The ISO has offered no testimony or evidence associated with this issue, and therefore takes no position at this time.

CONCLUSION

For the reasons set forth above, the ISO respectfully requests that the Presiding Judge issue proposed findings of fact adopting the positions set forth herein.

Respectfully submitted,



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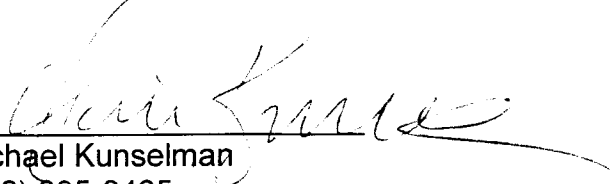
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Dated: October 18, 2002

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 this proceeding.

Dated at Washington, DC, this 18th day of October, 2002.

A handwritten signature in black ink, appearing to read "Michael Kunselman", written over a horizontal line.

Michael Kunselman
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