

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

California Independent System Operator Corporation)	Docket No. ER01-313-004
Pacific Gas and Electric Company)	Docket No. ER01-424-004

**ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
TO THE MOTION FOR LEAVE TO FILE INTERLOCUTORY APPEAL
OF THE MODESTO IRRIGATION DISTRICT**

**To: The Honorable Bobbie J. McCartney
Presiding Administrative Law Judge**

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213, the California Independent System Operator Corporation ("ISO") hereby submits its Answer to the Motion for Leave to File Interlocutory Appeal ("Appeal Motion") of the Modesto Irrigation District ("MID") in the above-identified proceeding.

1. MID filed a Motion to Clarify the Scope of the Proceeding on December 10, 2004.
2. On December 22, 2004, the Presiding Judge responded to MID's Motion to Clarify the Scope of the Proceeding. In a carefully reasoned decision based on the language of the Commission's November 16, 2004 Order establishing this proceeding, *California Independent System Operator Corporation*, 109 FERC ¶ 61,162 (2004), the Presiding Judge concluded, "[T]he

Commission specifically limited this hearing to the consideration of the exemption that it adopted in Opinion No. 463-A.” December 22 Order at P 9.

3. On January 6, 2005, MID filed the Appeal Motion, seeking permission to appeal the December 22 Order to the Commission. Under Rule 715 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.715, the Presiding Judge may only permit an interlocutory appeal if she finds *extraordinary circumstances* which would make prompt Commission review of the contested ruling necessary to prevent detriment to the public interest or irreparable harm to any person.

4. In its Appeal Motion, MID makes absolutely no effort to show extraordinary circumstances that make prompt Commission review necessary to prevent detriment to the public interest. Rather, it simply asserts in one sentence that such circumstances exist. The remainder of its Appeal Motion is simply a repetition of the arguments regarding the November 16 order that were made in the Motion to Clarify the Scope of the Proceeding. The fact that the MID and Commission Trial Staff disagree with the Presiding Judge’s resolution of the issue (Appeal Motion P. 11) is certainly not an extraordinary circumstance and is not detrimental to the public interest. Were it so, every ruling of the Presiding Judge would be subject to interlocutory appeal.

5. Because MID has not provided a basis for an interlocutory appeal, its motion must be denied.

Wherefore, the ISO respectfully requests that the Presiding Judge deny
MID's Motion.

Respectfully submitted,

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January 12, 2005

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 12th day of December in the year 2005 at Folsom in the State of California.

/s/ Stephen A.S. Morrison
Stephen A.S. Morrison