

**THE 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 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)	

**MOTION TO ADMIT EVIDENCE OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

**To: Honorable Bruce Birchman
Presiding Administrative Law Judge**

Pursuant to Rules 212, 508 and 509 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.508, 385.509 (2001), the California Independent Operator Corporation (“ISO”) submits this motion to admit into evidence in the above-captioned proceeding Exhibits ISO-34 and ISO-35, as attached. The ISO is submitting these Exhibits pursuant to a request made by the Presiding Judge during the hearing held on April 9, 2002, that the ISO provide additional information with respect to certain issues set for hearing in this proceeding, and the Presiding Judge’s statement at that time that he was

reserving Exhibits ISO-34 and ISO-35 for this purpose. Transcript at 2977:19-25, 2980:25-2981:7.¹

Exhibit ISO-34 consists of a declaration prepared by Ms. Ean O'Neill, who has previously filed Direct and Rebuttal Testimony on behalf of the ISO in the 202(c) portion of this proceeding. In that declaration, Ms. O'Neill explains the ISO's position with respect to the trial stipulation entered into between the Northern California Power Agency ("NCPA") and Commission Trial Staff ("Staff"), designated as Exhibit NCP-9. Specifically, Ms. O'Neill explains why the ISO cannot concur with the agreement reached between Staff and NCPA that a sale made by NCPA on December 23, 2000 was made pursuant to section 202(c) of the Federal Power Act.

Exhibit ISO-35 consists of a declaration prepared by Ms. O'Neill which addresses the ISO's position on whether sales made to the ISO by the Los Angeles Department of Water and Power ("LADWP") constitute 202(c) sales, in light of the information contained on Exhibit DWP-21, and Staff's conclusion that the transactions referenced in that Exhibit qualify for 202(c) treatment. Ms. O'Neill explains that it continues to be the ISO's position that sales made by LADWP, including those sales referenced by DWP-21, should not be considered as made pursuant to section 202(c).

Because these exhibits contain information specifically requested by the Presiding Judge, and that information is relevant to the disposition of the issues

¹ The Presiding Judge also reserved Exhibit ISO-36 for additional information to be provided by the ISO. That Exhibit will be filed with the Commission by 12:00 p.m. tomorrow (April 16, 2002), with copies provided to the Presiding Judge at that time.

set for hearing in this proceeding, the ISO respectfully requests that Exhibits ISO-34 and ISO-35, as attached to this pleading, be admitted into evidence.

Respectfully submitted,

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Dated: April 15, 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 Judge in the above-captioned dockets.

Dated at Washington, DC, on this 15th day of April, 2002.

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