

Californians for Renewable Energy, Inc.(CARE)

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STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:

) Docket No. 99-AFC-3

Application for Certification for the
Metcalf Energy Center [Calpine
Corporation and Bechtel Enterprises, Inc.]

)
) **Response to Cal-ISO's letter**
) **of 9-1-00 calling for expedited**
) **consideration of the MEC AFC**

CARE wishes to respond to the 9-1-00 Cal-ISO letter to the CEC, in regards to the need for expedited consideration of the Metcalf Energy Center's AFC. CARE wishes to refute false and misleading statements by the Cal-ISO, and provide evidence to refute these erroneous statements. (A copy of the letter may be viewed in the attached PDF file Exhibit _A_ISOMECLetter.pdf.) CARE calls on the CEC to disregard the ISO's letter during their pending investigation by the California Attorney General's Office and the FERC, and "that the Commission find the wholesale markets in California are not currently workably competitive and take such actions as are necessary to ensure that wholesale prices for energy and ancillary services are just and reasonable."¹

In this regard the letter states, "I am writing this letter to request that you expedite your consideration of the AFC for the Metcalf Energy Center (MEC) in San Jose. Understanding that you must always balance the need for a project with environmental and community concerns, the ISO believes that the MEC will provide substantial reliability benefits to the San Jose area sufficient to offset the impacts the MEC opponents have identified." CARE strongly objects to the Cal-ISO statement that, "the MEC will provide substantial reliability benefits to the San Jose area sufficient to offset the impacts the MEC opponents have identified." What expertise or environmental review does the Cal-ISO provide to substantiate this erroneous opinion? Does the Cal-ISO have any CEQA, or NEPA, review process on which these findings are based? CARE requests that the administrative record, reflect that this opinion, is just that, and not based on any technical evidence in the record.

This letter further states, "ISO studies show that, with no major generation supply, the San Jose area is the most vulnerable metropolitan area on the PG&E system for local problems. With continued growth in the area, if new generation is not developed

¹ California Electricity Oversight Board (EOB), complaint to the Federal Energy Regulatory Commission (FERC Docket No.EL00-104-000).

(and none other than the MEC currently appears likely in the area), major transmission facilities will be needed. These facilities will have their own set of environmental impacts, as they could require several miles of new right-of-way.” CARE contends that this statement implicitly recognizes the need for new transmission facilities in order for the proposed MEC new generation to have an impact on Bay Area electricity reliability. As current transmission system upgrades proposed by PG&E to this transmission system are currently under consideration by the Cal-PUC, clearly the PUC is the appropriate agency to provide technically accurate comments on the effect of these transmission upgrades and the construction of the MEC on grid reliability, and associated environmental and socioeconomic impacts. Once again, the Cal-ISO is stating an opinion, without the technical expertise or data to back it up.

CARE contends that in fact the Cal-ISO and the generators (like Calpine/Bechtel) are currently involved together in a ISO/generator trust to drive up the price of electricity, and justify expedited power plant construction in California to further maximize generator profits. CARE concurs with many of the findings in regards to this by the California Electricity Oversight Board (EOB) in its complaint to the Federal Energy Regulatory Commission (FERC Docket No.EL00-104-000). The EOB complaint against the generators, Cal-ISO, and Cal-PX states that the EOB,

“Hereby petitions the Commission to rectify unjust and unreasonable prices stemming from the wholesale markets for energy and ancillary services operated by the California Independent System Operator (CAISO) and the California Power Exchange (CalPX). The California Board requests that the Commission find the wholesale markets in California are not currently workably competitive and take such actions as are necessary to ensure that wholesale prices for energy and ancillary services are just and reasonable. “

(A copy of the complaint may be viewed in the attached PDF file Exhibit_B_EOBFERCComplaint.pdf).

CARE contends that the ISO/generator trust contrived the June 14, 2000 rolling outage, to drive up the price of electricity, and justify expedited power plant construction in California, and did this in violation of Title VI of the Civil Rights Act of 1964, because of disparate impacts of the outage on low income and minority populations. CARE is involved in an investigation of the June 14, 2000 rolling outage in the San Francisco Bay Area. On July 31, 2000 CARE issued a data request to the Cal ISO, Cal EOB, and Cal PUC (see Exhibit_C_JuneOutage&TitleVI.doc). In this data request CARE alleges the following.

"CARE contends that the absence of a declaration of a Stage 3 emergency state wide on June 14, 2000 prevented the curtailment of

exports during a system emergency. This action resulted in discriminatory effects (the loss of power to 96,000 customers on the hottest day of the year) in violation of Title VI regulations. The disparately impacted environmental justice populations include, but are not limited to, low-income, minority, disabled, children, the elderly, and the mentally and/or physically impaired. Based on the information available CARE contends that by authorizing the continuation of exports during a system emergency the Cal-ISO demonstrated intent to discriminate against these populations, and further did this to the benefit of California based energy generators as the continued exportation of power by these generators took place at the \$750/MW price cap during the system emergency.

The California EOB violated the Act through their failure to exercise regulatory oversight controls over the Cal-ISO discriminatory actions. The Cal-PUC violated the Act through their failure to exercise regulatory oversight and controls over Pacific Gas and Electric Company, and other involved distributors', and generators' discriminatory practices. Further PUC has failed to provide affected EJ populations assistance in just compensation for these discriminatory effects."

To date CARE has received written and oral response to the data requests by the EOB, and PUC. These two agencies appear to be exercising due diligence in responding to CARE's data requests. For its part, the Cal ISO has failed to respond too two such data requests.

At its August 31, 2000 meeting the EOB board rejected the appointment of members of the Cal ISO governors, based on the ongoing investigation by the California Attorney General and the Federal Energy Regulatory Commission (FERC) of ISO involvement in "gaming" with the generators. On August 31, 2000 the California Electricity Oversight Board (EOB) acted to "intervene to protect the California consumers, and wholesale prices" by rejecting the ISO's proposed nominees, as sited in this section from the transcript of the August 31, 2000 meeting.

"22 CHAIRMAN KAHN: Mr. Willison?
23 The Electricity Oversight Board has been
24 instructed by -- or asked by the governor and we have
25 adopted resolutions which have made it clear that we

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1 believe the FERC ought to intervene and protect the
2 California consumers and wholesale prices. As of
3 now, the Board is not satisfied that either the Power

4 Exchange or the ISO have taken sufficient actions to
5 protect the California Consumers. The Legislature
6 is, as we speak, addressing issues relating to the
7 wholesale market and how they're going to approach
8 the regulatory scheme. Under these circumstances, we
9 believe it inappropriate for us to confirm any
10 nominees for either of the boards. And that's my
11 personal view, and I believe that will be expressed
12 in the resolutions. We thought it only fair to tell
13 you what we're thinking and why we're thinking what's
14 going on. We intend, of course, to reevaluate the
15 situation in light of what the Legislature does today
16 and in light of the input of our legislative members
17 who are not here today.

18 Mr. Willison, do you have a motion?

19 MR. WILLISON: Yes. First of all, I'd just
20 comment that I echo your concerns there. Therefore,
21 the Board -- or I will move that the Board decline to
22 confirm the appointments for agricultural,
23 industrial, commercial and residential end-users and
24 the members for the public interest groups and then
25 decline to appoint members as end-users at large or

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1 non-market participants to the California Power
2 Exchange governing Board.

3 CHAIRMAN KAHN: Second.

4 All in favor?

5 Aye.

6 MR. WILLISON: That motion passes two to
7 nothing.

8 Do you have a motion with respect to the ISO
9 members?

10 MR. WILLISON: Basically, the same motion with
11 the ISO members, namely, to decline to confirm the
12 nominees for the categories of agricultural,
13 industrial, commercial and residential end-users and
14 also the public interest groups and decline to
15 appoint members as end-users at large or non-market
16 participants.

17 CHAIRMAN KAHN: Second.

18 All in favor of the resolution?

19 Aye.
20 MR. WILLISON: Aye.
21 CHAIRMAN KAHN: That passes two to nothing.
22 MR. ROBINSON: Mr. Chairman?
23 CHAIRMAN KAHN: Yes.
24 MR. ROBINSON: If I could have some
25 clarification.

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1 CHAIRMAN KAHN: Sure.
2 MR. ROBINSON: Are you deferring action or am
3 I to assume by that that we need to begin another
4 process to fill the vacancies on the board?
5 CHAIRMAN KAHN: Well, we are not deferring
6 action; we're declining.
7 MR. ROBINSON: Thank you.
8 CHAIRMAN KAHN: And so there will be another
9 process required. As to what that process consists
10 of, we would recommend that you confer with the EOB
11 staff after what -- give everybody the Labor Weekend
12 to digest whatever the Legislature does, and then on
13 Tuesday morning, I think, consultation by the Power
14 Exchange and by the ISO with EOB staff would be
15 appropriate.
16 MR. ROBINSON: Thank you, Mr. Chairman.
17 CHAIRMAN KAHN: And the EOB staff will be in
18 touch with the legislative members and with the
19 Administration during that period of time, also.
20 Okay. Mr. Heath?"

In the written information provide to CARE by the PUC, a written response to the PUC subpoena of the ISO, clearly lists the Calpine owned "Geysers" as two of three power plants down for "scheduled maintenance" on June 14, 2000. Clearly the decision to "schedule maintenance" on the hottest day of the year when demand is highest was a planned activity with ISO concurrence that resulted in the June 14, 2000 outages. It also includes Southern Energy owned Pittsburg#6, which was purchased from PG&E as a "Must-Run" generation facility. (See Exhibit_D_ISOonJune14.pdf)

Clearly the decision to "schedule maintenance" on the hottest day of the year when demand is highest was a planned activity with ISO concurrence that resulted in the June 14, 2000 outages. The 9-1-00 Cal-ISO letter to the CEC, in regards to the need for expedited consideration of the Metcalf Energy Center's AFC concludes,

“Should shortages occur, the ISO could be forced to implement rolling blackouts of customers, such as occurred in the Greater San Francisco Bay Area on June 14, 2000. The ISO is committed to doing everything in our power to prevent these actions, such as providing financial incentives for installing temporary generation in key locations in deficient areas. New generation at Metcalf will be a permanent means to defer these extreme measures in the foreseeable future.”

In a letter to the PUC from the Transmission Agency of Northern California (see Exhibit_E_TANConJune14.pdf) on the June 14, 2000 outages points to the ISO's refusal to support upgrades to the California Oregon Intertie, as the cause of the loss of 300 MW on that day, as well as a total loss of 900 MW transfer capability. Further the ISO/generator trust's calls for new generation is disputed by the statement,

"In addition, the California Energy Commission (CEC) has been approving various merchant plants, which may further degrade Intertie transfer capability".

Attached to this letter is an excel spreadsheet showing the import and export capacity (in MW) on the California-Oregon Intertie. CARE notes that on June 14 between 11AM and 1PM California was a net exporter of power to Oregon. If the Cal-ISO fulfilled its statutory responsibilities, and declared a Stage 3 emergency, exports of 3675 MW to Oregon would have been curtailed. Since Firm exports were not curtailed, by CARE's calculations, at 3675 MW/hr x \$750/MW gives \$2,756,250/hour being made by California generators on exports out of state on the hottest day of the year during a system emergency. CARE cannot confirm that this level of export occurred, because the Cal-ISO is protecting this information as confidential market information. Neither the EOB nor PUC has provided any evidence that this information has been made available as a result of subpoenas they have served on the Cal-ISO.

Cal-ISO board president, Jan Smutney Jones, and his co-trustees in California's Electric Grid Power Trust (AKA Independent Energy Producers) provides evidence of an ISO/generator trust (see Exhibit_F_IndEnergyProdonJune14.pdf) in the form of a letter to PUC from the "Independent Energy Producers" on the causes of the outage. The letter is signed by a majority of California's generators and the ISO board president. This demonstrates the people in control of California's power grid, are not the distributors (like PG&E, SCE, & SDG&E), or the consumers, but the generators, or their agents. With the recent EOB rejection of ISO consumer classes from being approved for the ISO board, now the ISO is literally in a situation where the Fox (the generators) is watching the Chicken coop (California's power grid) and we are all the chickens.

In conclusion, CARE requests that the CEC make this letter and the six exhibits part of the administrative record in this case. CARE wishes to respond to the Cal-ISO letter, “to request that you expedite your consideration of the AFC for the Metcalf Energy Center (MEC) in San Jose.” CARE contends that in fact the Cal-ISO and the generators (like Calpine/Bechtel) are currently involved together in a ISO/generator trust to drive up the price of electricity, and justify expedited power plant construction in California to further maximize generator profits. CARE calls on the CEC to disregard the ISO’s letter during their pending investigation by the California Attorney General’s Office and the FERC, and “that the Commission find the wholesale markets in California are not currently workably competitive and take such actions as are necessary to ensure that wholesale prices for energy and ancillary services are just and reasonable.”²



Michael E. Boyd – President, CARE 9-23-00

² California Electricity Oversight Board (EOB), complaint to the Federal Energy Regulatory Commission (FERC Docket No.EL00-104-000).