

**UNITED STATES OF AMERICA 100 FERC ¶ 63,018
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

**ORDER ADOPTING FINAL JOINT NARRATIVE
STIPULATION OF ISSUES
ON ISSUES 2 AND 3**

(Issued August 26, 2002)

1. This order confirms my rulings from the August 16, 2002 Prehearing Conference concerning the captioned proceeding (Tr. at 4089) and, consistent with my various rulings on motions to strike issued on August 14 and 15, 2002 (Tr. Vol. Nos. 25-28) and the stipulations reached by Parties concerning issues presented in this proceeding (Tr. Vol. No. 29), adopts this final Joint Narrative Stipulation of Issues (JS) filed on August 22, 2002 with regard to the issues set for hearing from August 19-23, 2002 (referred to commonly as Issues 2 and 3). This JS is reproduced in the Appendix to this Order.
2. This JS shall apply to adjudication of these issues subject to further rulings and orders.

**Bruce L. Birchman
Presiding Administrative Law Judge**

Appendix

FINAL JOINT NARRATIVE STIPULATION OF ISSUES

I. **DID THE ISO AND PX CORRECTLY RERUN THEIR SETTLEMENT AND BILLING PROCESSES?**

P1. *Arizona Electric Power Cooperative, Inc. (“AEPSCO”) Position:* At this time, AEPSCO has no major disagreements with the ISO’s and PX’s calculations of the amounts of AEPSCO’s refund liabilities and accounts receivable, recognizing that there are MMCP adjustments yet to be taken into account. AEP-14 at 4:6-15; AEP-15 at 6:17-21.

A. **Did the ISO correctly rerun its settlements and billing processes?**

P2. *SMUD Position:* SMUD does not necessarily concede the correctness of the ISO’s MMCP proxy calculation, but SMUD’s calculation of refund liability employs the ISO’s MMCP as a proxy price for the MMCP until FERC determines the appropriate MMCP. This approach matches the PX’s use of the ISO’s MMCP, and is appropriate because the PX acted as SMUD’s Scheduling Coordinator and calculated SMUD’s refund liability. SMUD reserves the right to challenge application of the MMCP to its sales should the Commission provide such opportunity following the hearings in this proceeding. SMD-15 at 4:4-20; 8:19-9:8.

1. **What is the appropriate pre-mitigation data to use as a baseline for applying the Mitigated Market Clearing Prices (MMCPs) litigated as Issue 1 in this proceeding in order to calculate refunds?**

P3. *City of Burbank, California (“Burbank”) Position:* Ancillary Services should not be capped at the non-mitigated market-clearing price for Imbalance energy but should be capped at the mitigated market-clearing price for Imbalance energy. JBG-13 at 3:6-5:13.

P4. *City of Glendale, California (“Glendale”) Position:* Ancillary Services should not be capped at the non-mitigated market-clearing price for Imbalance energy but should be capped at the mitigated market-clearing price for Imbalance energy. JBG-13 at 3:6-5:13.

P5. *Modesto Irrigation District (“MID”) Position:* In the instance where the Presiding Judge or the Commission finds that the ISO’s data is completely unreliable, MID attaches evidence from MID’s internal records showing the transactions made with the ISO and PG&E. MID-20 at 5:4-7:10; MID-21; MID-22.

P6. *Pinnacle West Companies Position:* The ISO has accurately reflected the transactions that occurred between the Pinnacle West Companies and the ISO. PNW-6 at 4:7-10; ISO-28.

P7. *EPME Position:* The transaction listed in EPME-3R (Revised) should not have the mitigated prices applied to it and, therefore, should be removed from the pre-mitigation data set to which the mitigated prices will be applied in this proceeding. The amounts originally invoiced for the transaction in EPME-3R (Revised) should remain intact and should be taken into account in determining amounts owed to EPME. EPME-1 (Revised) at 7:18-17:23; EPME-3R (Revised); EPME-4 (Revised) at 2:17-7:10.

P8. *PPL Position:* The ISO and PPL agree as to the quantities and premitigation prices of all sales by PPLM to the ISO during the refund period, and as to the premitigation amounts due and owing to PPLM for these sales. PPL-18 at 2:7-4:21; PPL-19R; PPL-22 at 2:7-12.

P9. *SET Position:* The transactions entered into by SET in the ISO markets that are the subject of this proceeding are reported in Exhibit SET-2. SET-1 at 3:8-19.

P10. *PS New Mexico Position:* The quantities and premitigation prices of sales by PS New Mexico to the ISO during the refund period are accurately reflected in Exhibit ISO-28. PNM-1 at 8:12-14.

P11. *LADWP Position:* The ISO and LADWP agree as to the quantities and premitigation prices of sales by LADWP to the ISO during the refund period. DWP-21R at 23:8-10.

P12. *Turlock Position:* The ISO and Turlock disagree as to the quantities and premitigation prices of sales by Turlock to the ISO during the refund period. TID-1 at 3:16-20; 4:1-7; 5:1-8:1, 9:21-12:21; 16:1-16; 20:1-24:14, TID-4.

a. Cut Off Date for Adjustments – What cutoff date, if any, should be set for adjustments to the settlement records for this proceeding?

P13. *ISO Position:* It may never be possible to take a “final” snapshot of the production data base for the refund period, *i.e.*, a snapshot after which there would be no further changes to the data base as a result of ongoing ISO operations. About the best one can do is take the next snapshot as close as possible to the time the new re-run is conducted. ISO-37 at 10:11-20. The difficulty with the proposal to impose a cut-off date is that the ISO Tariff allows for prior period adjustments without any cut-off date for certain transactions. The ISO would be willing to agree to such a cut-off date if all parties in this proceeding and Scheduling Coordinators were to stipulate that all outstanding issues relating to trade dates during the refund period are extinguished. ISO-45 at 4:15-5:3.

P14. *California Parties Position:*¹ When the ISO and PX rerun their settlements, they should update their data to include the most current and accurate data available that can reasonably be incorporated. No “cutoff date” should serve to preclude changes from being made to the ISO’s and PX’s settlements and billings thereafter so long as any changes made after refunds are determined are calculated with reference to the new market-clearing prices that result from this proceeding. CAL-82 at 13:18-14:15.

P15. *California Generators Position:*² The Commission should establish a date for the ISO to update its pre-mitigation data base prior to the point in time when it makes its final refund and offset calculations in this case. GEN-83 at 4:8-16. The Commission should not prematurely cut off the ability to include the resolution of billing disputes. GEN-83 at 4:14-16.

P16. *Pinnacle West Companies Position:* The cut off date for adjustments to settlement data should be set on July 26, 2002, reflecting the most recent data from the ISO and PX.

b. Mislogged Transactions – Which, if any, transactions were mislogged by the ISO, and how should such transactions be accounted for?

P17. *ISO Position:* The Commission’s May 15, 2002 Order requires the Presiding Judge to make a finding of mislogging of OOS transactions by the ISO in violation of the ISO Tariff before the ISO would be required to re-calculate historical MCPs. No witness has identified any specific provision of the ISO Tariff that was violated by any alleged mislogging, or by the failure to set the historical market clearing price by the bid associated with any allegedly mislogged transactions. ISO-37 at 36:9-37:6.

P18. *California Parties Position:* The evidence fails to demonstrate that mislogging of non-congestion, out-of-sequence transactions resulted in the ISO establishing incorrect market-clearing prices. CAL-53 at 16:17-19:8. A demonstration has only been made that there was a potential for mislogging, not that it actually occurred. CAL-54 at 36:3-41:6.

P19. *California Generators Position:* A significant number of out-of-sequence non-congestion transactions have been demonstrated to have been mis-logged by the ISO (*i.e.*, logged inconsistent with ISO Operating Procedure M-403, understood by the Commission as an integral part of the Tariff). The ISO’s pre-mitigation data base should

¹ The California Parties are, collectively, the Attorney General for the State of California (“Attorney General”), the California Electricity Oversight Board (“EOB”), the California Public Utilities Commission (“CPUC”), Pacific Gas and Electric Company (“PG&E”), Southern California Edison Company (“Edison”) and San Diego Gas & Electric Company (“SDG&E”).

² The California Generators are, collectively, Duke Energy, Dynegy, Mirant, Reliant, and Williams.

be updated to correct this mis-logging prior to calculation of the historical market clearing price during the settlement rerun. GEN-36 at 6:4-6, 17:13-24:9; GEN-89 at 29:1-41:3.

P20. *Powerex Corp. Position:* The ISO mislogged many out-of –sequence transactions as out-of-market transactions resulting in their exclusion from the Ex Post Price software stack, when if included, these transactions could have set the MCP. The ISO should recalculate the pre-mitigation MCPs including the mislogged transactions. PWX-53 at 8:29-9:8.

P21. *Staff Position:* Ms. Patterson examined the ISO’s procedure for correcting mislogged Out-of-Sequence (OOS) transactions. (The ISO adjusted the price paid for the mislogged transaction, but not the MCP for the interval in which the transaction was mislogged.) She concluded that, depending on the relationship between the historical MCP and the MMCP, this practice may result in sellers in the market receiving less than they were entitled to, even after mitigation. She recommended that the ISO be directed to recalculate the historical MCPs in its compliance filing. S-95 at 12:13-19:9.

c. Combined Settlements Database – Should a pre-mitigation database that combines all transaction records be created? If so, when should it be created, who should create it, and how should costs be covered?

P22. *ISO Position:* The ISO has provided the parties in discovery with its initial production data. The fact that parties do not have exactly the same set of production amounts as the ISO is a consequence of the difficulty of producing exactly the same database. The ISO acknowledges that such a database may be helpful to parties in verifying the ISO’s calculations, but it is not the ISO’s obligation to create a database that it does not use in its own settlement process. The ISO has put the parties’ consultants in contact with a company that could, at parties’ cost, prepare this type of database. ISO-37 at 14:18-15:17.

P23. *California Generators Position:* The ISO should be obligated to combine all records associated with transactions to create a pre-mitigation transaction data base that will be the basis for calculating refunds and offsets and for determining interest. GEN-36 at 3:3-7, 6:1-13; GEN-83 at 4:17-19. This will provide a transparent set of workpapers to enable the Commission and others to verify the accuracy of the ISO’s calculations. GEN-89 at 7:1-21.

P24. *Powerex Corp. Position:* The ISO and the PX should provide a complete and accurate pre-mitigation transaction database that includes all transactions for all Charge Types for the refund period that should be used as the “snapshot” on which settlement reruns will be based. The database should be provided in compliance filings by the ISO and the PX in a format that can be verified by all participants in this proceeding. The

data provided by the ISO to date has not been in a usable format and has contained numerous errors that have not been reconciled. PWX-53 at 3:6-11, 5:14-26, 7:13-19, 9:9-20; PWX-56 at 3:10-13:2. This pre-mitigation transaction database should include all manual adjustments, mislogged out-of-sequence transactions (as corrected), correct quantities of power sold, and correct market clearing prices as the ISO should have calculated them in real time. PWX-53 at 5:27-6:13, 7:11-12, 8:29-9:8; PWX-54 at 1-7. The ISO should be required to rerun its settlements based on this pre-mitigation transaction database. PWX-53 at 6:14-20. The snapshot is necessary to determine the cash position of participants at a particular point in time. PWX-77 at 15:3-24. It is imperative that the ISO provide a pre-mitigation transaction database for the refund period in order to get an accurate and verifiable snapshot of the transactions on which refunds are based. In contrast to Mr. Gerber's interpretation of this request, however, the ISO need not provide a database completely different from what it has already provided. The ISO must simply modify the existing database in two ways: (1) provide the means to link all 'A' records to their associated 'D' records, and (2) establish conventions for the manual entry of data. PWX-80 at 2:26-3:4, 11:1-12:20.

2. What types of transactions or charge types, if any, did the ISO change or treat improperly as part of its mitigation, or were otherwise mishandled from a policy perspective?

P25. *PPL Position:* PPL believes that the ISO and PPL are now in full agreement as to which transactions between PPL and the ISO are subject to mitigation under the Commission's Orders. PPL-18 at 5:7-5:14, PPL-21 at 2:15-2:19 & n.1. The accuracy of the CAISO's most recent settlement runs cannot be determined precisely at this time because the ISO has not used its most recent MMCP numbers in its settlement runs, and PPL therefore reserves its right to challenge any implementation errors reflected in updated runs. PPL-18 at 6:11-7:7. PPL notes that the CAISO has recently admitted that it mitigated a "Section 202 (c) sale made by PPLM on January 2, 2001, an error it will have to reverse. PPL-22 at 3:8-14; *see* ISO-37 at 95:21-22.

P26. *Modesto Irrigation District ("MID") Position:* MID cannot state for certain what MID's refund amount would be using the Commission's methodology, but provides an illustration refund amount for conceptual purposes. MID-20 at 6:13-7:10; MID-21; MID-22.

- a. [Removed]
- b. **Non-Spot Transactions – Was the ISO’s classification and mitigation of non-spot transactions (sales of more than 24 hours in duration or entered into more than one day prior to delivery) appropriate?**

P27. *ISO Position:* The Commission has confined these proceedings to spot transactions, which it has defined as those transactions that are 24 hours or less in duration and that were entered into the day of or day prior to delivery. The ISO believes that non-spot transactions were entered into by AES, Dynegy, LADWP, Powerex, Puget Sound, Sempra, TransAlta, and possibly BPA. ISO-37 at 64:18-79:10.

P28. *California Parties Position:* Only transactions with the ISO that had a duration of longer than 24 hours or that were entered into more than one day prior to delivery should be exempt from mitigation. CAL-40 at 3:14-7:23; CAL-54 at 7:19-20:2; CAL-83 at 5:18-17:11.

P29. *Sellers Position:* Given that the Commission has explicitly excluded from mitigation any bilateral transaction between an individual seller and the CAISO if the transaction had a duration of longer than 24 hours, or if the transaction was entered into more than one day prior to delivery, the CAISO improperly mitigated two Puget Sound Energy transactions with the CAISO that were multi-day transactions. The exclusion of these transactions from mitigation means that Puget is entitled to the entire original amounts due from the CAISO for both transactions – a total of \$26,000,000 – and reduces Puget Sound Energy’s refund obligation by approximately \$6.4 million. SEL-19 at 33:5-13, 64:1–66:24; SEL-39; SEL-40, Attachment B. The CAISO’s subsequent admission that these Puget transactions should not be mitigated are amply supported by the record. SEL-42 at 43:3–45:26.

P30. *Dynegy Position:* Transactions entered into pursuant to the 11-day bilateral contract between the ISO and Dynegy were non-spot transactions that are not subject to mitigation. DYN-16 at 22:1-26:19; DYN-32 at 9:19-19:3.

P31. *Powerex Corp. Position:* Yes, as corrected. The ISO should correct its settlement reruns to exclude mitigation of non-spot transactions. Both the ISO and Powerex agree that Powerex’s 400 MW around the clock transaction from November 23, 2000 to December 3, 2000, and 100 MW around the clock transaction from December 4, 2000 to December 31, 2000, are non-spot transactions and the data and other evidence provided supports that these transactions are non-spot transactions that are not subject to mitigation in this proceeding. PWX-56 at 9:16-24; PWX-60; PWX-74 at 3:1-5:23; PWX-75; PWX-76; PWX-77 at 14:8-20; PWX-79.

P32. *Redding Position*: Redding made at least two sales which were prearranged for a period of time of more than 24 hours in duration, in the amount of 6,304.3 MWh. REU-6 at 5:8-6:22.

P33. *TransAlta Position*: TransAlta entered into four balance-of-the-month transactions starting December 4, 2000, that were terminated early. These transactions should not be mitigated. TRA-6 at 2:2-3:9; TRA-12 at 2:1-4:18; TRA-13.

P34. *SET Position*: The ISO failed to identify SET's 4-day transaction to the ISO lasting from December 9 to December 12, 2000 as a multi-day transaction and incorrectly subjected it to mitigation. SET-1 at 4:17-6:2; SET-3; SET-4; SET-6 at 2:22-4:2; SET-7; SET-8.

P35. *EPME Position*: No. A certain non-spot transaction was improperly mitigated by the CAISO. Non-spot transactions are not subject to mitigation in this proceeding and, therefore, the amounts originally invoiced for that transaction should remain intact. EPME-1 (Revised) at 7:18-17:23; EPME-3R (Revised); EPME-4 (Revised) at 2:17-7:10.

P36. *AES Position*: The ISO misclassified and mitigated a series of long-term, non-spot, sales Placerita made with the ISO from 12/6/00 through 12/12/00 as spot transactions. The negotiated sales began on 12/6/00 HE 16 through 12/7/00 HE 24, extended under the same negotiated agreement through 12/8/00 HE 24, then continued from 12/9/00 HE01 through 12/12 HE 24. AES-2 at 3:19-6:14; AES-3; AES-6 at 2:17-3:17; AES-7. The ISO used the names AES Placerita, APPGEN_6_Unit 1, and Magic Mountain interchangeably, but they are one and the same. AES-6 at 3:18-4:12; AES-8; AES-9.

P37. *LADWP Position*: The ISO's classification and mitigation of the energy sales from LADWP to the ISO in the transactions identified in Exhibit DWP-22 was not appropriate under the Commission's orders because these sales were non-spot market sales with a duration of more than 24 hours. DWP-21R at 3:18 -9:6; DWP-21R at 20:13-14; DWP- 22; DWP-23; DWP-24; DWP-25; DWP-40 at 3:26-7:6; DWP-42; ISO-28; ISO-29; S-95 at 4:18-5:10. In addition, the sales identified as Transactions E, F, H, I, and K in Exhibit DWP-22 were entered into before the day of or the day prior to delivery. DWP-40 at 13-7:22; DWP-42; *see also* DWP-22; DWP-23; DWP-25.

P38. *BPA Position*: The ISO has erroneously included in its refund calculation transactions that should properly be excluded as bilateral transactions not subject to refund in this proceeding. BPA-57 at 3:20-4:16. These transactions include multi-day transactions that the ISO has admitted do not belong in the refund calculation. BPA-57 at 4:19-5:8; BPA-61, BPA-62, BPA-63 and BPA-64.

P39. *Imperial Irrigation District ("IID") Position*: Yes. All of IID's sales were bilateral in nature and were not made to either the ISO or PX. IID-1 at 5:15-7:15.

Because IID's sales were bilateral with third parties they are exempt from the proceeding under the Commission's Orders. IID-1 at 7:1-15. The ISO's data supports IID's arguments. IID-17:17-9:21.

P40. *Staff Position:* Ms. Patterson concluded that multi-day transactions should not be subject to mitigation. S-95 at 4:15-5:10. On rebuttal she concluded that some of AES's claimed transactions were multi-day, but one was not. S-106 at 4:19-5:7. The documentation did not support TransAlta's and EPME's claim that their transactions were multi-day. S-106 at 5:8-8:4.

c. [Removed]

d. [Removed]

e. [Removed]

f. [Removed]

g. **Energy Exchange Transactions**

i. [Removed]

ii. **How should Energy Exchange Transactions be accounted for?**

P41. *ISO Position:* Energy Exchange Transactions should be accounted for pursuant to the ISO's methodology as set forth in the ISO's filing of its energy exchange agreement with BPA in Docket No. ER01-2886. ISO-37 at 31:5-14. Energy Exchanges must be treated identically in the ISO's production system and refund recalculation to ensure symmetrical treatment. ISO-45 at 9:10-20.

P42. *California Parties Position:* The ISO should allocate costs of its Energy Exchange Program using the "standard settlement accounting method," consistent with its Tariff, and should use this same method in its Settlement Rerun. CAL-54 at 46:5-48:17; CAL-83 at 34:23-36:15.

P43. *California Generators Position:* Although the ISO erred in the way it accounted for Energy Exchange Transactions in its pre-mitigation data base, the ISO's charging of such transactions via new Charge Type 1487 is appropriate to reduce neutrality adjustment charges above the cap. GEN-36 at 30:18-32:11; GEN-83 at 30:12-16; GEN-89 at 13:5-22.

P44. *Staff Position:* Ms. Patterson was unable to determine how the ISO has allocated the costs of exchange transactions. The costs should be allocated and accounted for

consistent with the provisions of the ISO Tariff as effective during the refund period. S-116 at 14:5-16:21.

- h. [Removed]
- i. **Energy Imports – Did the ISO improperly mitigate imported energy based on intervals as opposed to hourly average MMCPs?**

P45. *ISO Position:* No. The ISO did not improperly mitigate imported energy; mitigation of imports based on intervals is correct. Using hourly average MMCPs to mitigate imports would be inconsistent with the ISO Tariff and the Commission's orders. ISO-37 at 24:4-21. There is no inequity in pricing these transactions on an interval basis because parties were not bidding or making decisions with knowledge of what the mitigated prices would be. ISO-45 at 5:10-16.

P46. *California Parties Position:* No. Whenever a seller sold separate products, or sold products at separate prices during a single hour, regardless of whether they are imports, the Commission requires that each sale be mitigated separately to the extent the rate exceeds the MMCP. CAL-53 at 15:6-16:15.

P47. *Powerex Corp. Position:* Yes, the ISO improperly mitigated imported energy based on each interval as opposed to the hourly average price paid to the importer. It is necessary to recognize that importers could not schedule between control areas in the Western Systems Coordinating Council on the interties into California on less than an hourly basis. Accordingly, the mitigated price for imports should be applied to the delivery of energy across the hour as a whole and not simply for the individual 10-minute blocks since imports are hourly products. PWX-53 at 11:15-13:13. Sellers had no alternative but to sell hourly products. The Commission's orders provide that hourly products should be mitigated on an hourly basis. This is consistent with the Commission's treatment of ISO and PX hourly market transactions, which are inherently the same as imports. PWX-77 at 9:21-12:8.

P48. *PPL Position:* Since out of market sellers such as PPLM could make sales only on a hourly basis, and not change the quantities provided in 10-minute intervals, it makes no sense to mitigate these sales on an interval basis rather than on an hourly basis, and the Commission has expressly provided that OOM sales should be mitigated on an hourly basis.. The ISO itself has provided hourly mitigated prices that can be used for these purposes. PPL-18 at 5:7-6:10; PPL-21 at 5:1-5:16; PPL-22 at 3:18-5:16.

j. Capacity Charges for Ancillary Services and Other Non-Energy Charges – Should the ISO mitigate capacity charges for ancillary services or other non-energy charges?

P49. *ISO Position.* Yes. It is appropriate to apply the MMCP to sales of imbalance energy and ancillary service sales and their attendant charge types. ISO-37 at 25:11-13.

P50. *California Parties Position:* Yes. The Commission's Orders require that Ancillary Services prices be mitigated regardless of whether they are capacity products. CAL-53 at 13:6- 14:15. The cap for ancillary services prices the Commission established is not the MMCP, but the market-clearing price established in the real-time imbalance energy market, as mitigated. CAL-35 at 12:12-17:5; CAL-82 at 16:19-22:21.

P51. *California Generators Position:* The Commission's orders provide that ancillary service capacity charges should be capped at the MMCP. GEN-83 at 16:10-17:22.

P52. *Sellers Position:* The CAISO has improperly mitigated the primary ancillary services – regulation, spinning reserves, non-spinning reserves, replacement reserves – since payments for these services were for capacity rather than energy. SEL-19 at 22:9–23:3; SEL-42 at 27:1–29:3; SEL-48 at 23:1-12. Additionally, charge types that have no relationship, or only an indirect relationship, to energy sales should not be mitigated, including: Interzonal Congestion Charges (Charge Types 203, 204, 253, 254, 255, 256, 451, and 452); Grid Management Charges (Charge Types 521, 522, 523, and 351); Wheeling Charges (Charge Type 352); High Voltage Access Charges (Charge Type 1302 and 3303); Black Start (Charge Types 1001, 1101, 1353, 3101, and 3353); Reactive Power (Charge Types 302, 1303 and 3302); Demand Relief Monthly Capacity Charge (Charge Type 117); No Pay Charge Spinning Reserve (Charge Type 141); No Pay Charge Replacement Reserves (Charge Type 144); Distribution of Preempted Spinning Reserve (Charge Type 1061); Distribution of Preempted Non-Spinning Reserve (Charge Type 1062); Distribution of Preempted Replacement Reserves (Charge Type 1064); No Pay Market Refund (Charge Type 1030); Estimated Summer Reliability Contract Capacity Payment Charge (Charge Type 1120); Rounding Adjustments (Charge Type 1999), and FERC fees (Charge Type 550). SEL-19 at 21:19-24, 22:1-7, 24:12-18, 25:3-6.

P53. *City of Burbank, California (“Burbank”)Position:* Ancillary Services should not be capped at the non-mitigated market-clearing price for Imbalance energy but should be capped at the mitigated market-clearing price for Imbalance energy. JBG-13 at 3:6-5:13.

P54. *City of Glendale, California (“Glendale”)Position:* Ancillary Services should not be capped at the non-mitigated market-clearing price for Imbalance energy but should be capped at the mitigated market-clearing price for Imbalance energy. JBG-13 at 3:6-5:13.

P55. *SRP Position:* Ancillary Service charges include energy charges and must be mitigated per the Commission's orders in this proceeding. SRP-5 at 6:5-6:23, 7:1-7:13.

P56. *Staff Position:* Because the Commission ordered a rerun of the settlements/billing process all charge types based on energy prices or on ancillary services capacity prices should change, along with the cash neutrality charge types. S-106 at 25:7-26:25. Staff does not agree with the California Parties' proposed methods. S-106 at 26:26-28:20.

k. Neutrality Charges

i. How should neutrality charges be mitigated, adjusted, and/or offset against refund amounts?

P57. *ISO Position:* The neutrality charge types were not directly mitigated. However, in the instance where a Scheduling Coordinator with little or no net negative deviation received its proportionate share of a credit in a given interval and that credit is removed from the neutrality adjustment, the application of the mitigated price will create the appearance of increased neutrality on the settlement statements that the Scheduling Coordinator receives. ISO-24 at 36:4-19.

P58. *California Parties Position:* To the extent that the ISO included in the neutrality adjustment charge the cost of transactions that are subject to refund, the ISO was correct to calculate refunds for those charges. CAL-53 at 14:16-15:5.

P59. *California Generators Position:* Neutrality adjustment charges should not be mitigated directly. They should be calculated in accordance with existing tariff provisions, allowed to change as a result of mitigation of other charge types, and allocated to metered demand plus exports. GEN-83 at 28:16-29:5.

P60. *Sellers Position:* Neutrality charges (Charge Types 1010, 1011, 1210, and 3999) and any other charge types that require the CAISO to rerun its billing and settlement software before determining any refund obligation adjustment should not be mitigated. SEL-19 at 24:19–25:2; SEL-48 at 6:5–7:2.

P61. *SRP Position:* Neutrality adjustment charges include energy charges and must be mitigated per the Commission's orders in this proceeding. SRP-5 at 3:14-4:4 (through "21:7.)"), 4:7-6:4, 7:1-7:13; SRP-8 at 11:3-11:16.

P62. *Staff Position:* Ms. Patterson disagrees with CSG's recommendation that the neutrality charge should not be mitigated, because it does not comply with Commission orders. S-106 at 30:8-35:4. Any rerun of the settlement/billing process should adhere to the provisions of section 11.2.9.1 of the ISO tariff. S-106 at 34:1-35:4.

ii. [Removed]

- i. **[Removed]**
- m. **Charge Types 401 and 481 – How should Charge Types 401 and 481 be mitigated or adjusted, if at all?**

P63. *ISO Position:* The ISO properly allocated payments between Charge Types 401 and 481 in the settlement rerun. ISO-37 at 21:14-22:7.

P64. *California Generators Position:* The ISO improperly reallocated charges in the settlement rerun from Charge Type 401 to Charge Type 481 for transactions that are not mitigated in this proceeding when the MMCP is lower than the prior historical market clearing price. GEN-36 at 28:9-30:2. This was not simply a rerun of the ISO's settlement system. It was an error in programming by the ISO associated with this proceeding that treated the MMCP as if it were the MCP for all purposes, when the MMCP was less than the MCP. GEN-89 at 18:14-19:12.

P65. *Sellers Position:* Charge types for Instructed Energy (401 and 481) and Uninstructed Energy (407 and 487) are subject to mitigation in this proceeding. SEL-19 at 20:16-18.

P66. *Powerex Corp. Position:* Charge Types 401 and 481 should be adjusted to correct for overcharges. PWX-56 at 7:17-9:15.

- n. **Charge Type 485 – Were Charge Type 485 penalties properly mitigated or adjusted and, if not, how should these penalties be adjusted and calculated?**

P67. *ISO Position:* The ISO acknowledges that it neglected to remove original, unmitigated penalty amounts and sometimes double-counted mitigated penalties in the settlements rerun. ISO-37 at 20:11-18.

P68. *California Parties Position:* The ISO erred in calculating refunds associated with Charge Type 485 penalties assessed on generators that fail to respond to dispatch instructions during a system emergency. The penalty is supposed to be based on the "highest price paid" by the ISO in an hour, so it should reflect the cost of unmitigated transactions such as 202(c) transactions and long-term sales to the ISO, and should not merely be capped at the MMCP. CAL-54 at 41:7-43:12.

P69. *California Generator Position:* The ISO erred in its calculation of post-mitigation Charge Type 485 penalties by incorrectly including pre-mitigation amounts and by duplicating some post-mitigation amounts as shown on Exhibit GEN-67. The ISO properly excluded transactions that appeared in its records to be purchases from CERS, as well as 202(c) purchases, from being considered in setting the Charge Type 485 penalties. GEN-36 at 25:9-26:22; GEN-89 at 16:8-18:13.

P70. *Staff Position:* Ms. Patterson concluded that the ISO mitigated Charge Type 485 penalties in re-running its settlement, but failed to remove the unmitigated Charge Type 485 penalties. She recommended that the ISO be directed to remove the unmitigated penalties in its compliance rerun. S-95 at 8:21-9:16.

o. Manual Adjustments – Has the ISO properly accounted for Manual Adjustments in the settlement rerun process?

P71. *ISO Position:* The ISO recognizes that in the course of performing the settlement rerun, it did not treat certain manual adjustments properly. ISO-37 at 15:9-16:2.

P72. *California Generators Position:* When mitigating the manual adjustments associated with the as-bid portion of transactions accepted above the historical market clearing price, the ISO erred by reversing these manual adjustments and settling the transaction at the historical market clearing price and not the MMCP. GEN-36 at 27:1-28:8.

P73. *Powerex Corp. Position:* No. The ISO must provide a corrected pre-mitigation transaction database and rerun its settlements to account for all Manual Adjustments. PWX-53 at 5:27-6:13; PWX-56 at 3:10-13:2.

P74. *SRP Position:* Incorporating the manual adjustments is crucial to ensuring that the refund calculations are accurate and consistent with the Commission's orders; suggestions to mitigate only automatic adjustments must be rejected. SRP-5 at 7:14-8:7.

P75. *Turlock Position:* No. The ISO has not properly accounted for manual adjustments and should be required to provide a corrected pre-mitigation transaction database and rerun its settlements to account for all Manual Adjustments. TID-1 at 3:16-20; 4:1-7; 5:1-8:1, 9:21-12:21; 16:1-16; 20:1-24:14, TID-4.

p. Should any transactions made pursuant to long-term Reliability Must Run ("RMR") contracts be subject to mitigation in this proceeding?

P76. *ISO Position:* The ISO did not distinguish between RMR and non-RMR transactions in its settlement rerun, and therefore all RMR transactions made in real-time were mitigated in the settlement rerun. On a going-forward basis, the ISO is not advocating one particular result with respect to the mitigation of these transactions. In deciding whether RMR transactions should be mitigated, the Presiding Judge and Commission should be aware of several unique concerns with respect to RMR transactions. First, if an RMR Owner chose to receive payment through the market, then it would have done so based on a comparison of its RMR contract rates and prevailing market prices. With respect to RMR transactions in which the RMR Owners chose compensation pursuant to the RMR contract, if the Charge Type 401 payments associated

with these transactions are mitigated, then the results of this mitigation would also need to be passed through the RMR invoicing process to avoid RMR Owners being deprived of a portion of their contract payment. ISO-45 at 22:1-24:10.

P77. *California Parties*: Market based RMR sales should be subject to mitigation. CAL-54 at 32:1-25.

P78. *NCPA Position*: No. These transactions are contract-based. NCPA's RMR contracts are long-term contracts negotiated between the ISO and NCPA, which impose on NCPA an obligation to dispatch the units whenever the ISO calls upon it to do so. NCP-10 at 4:17-6:9; NCP-14 at 5:16-17, 6:3-10, 7:18-9:4.

i. Contract path pricing (cost-of-service).

P79. *ISO Position*: If Charge Type 401 payments associated with these transactions are mitigated in the ISO's settlement system, then the results of that mitigation would also need to be passed through the RMR invoicing process in order to avoid RMR Owners' being deprived of a portion of their contract payment. ISO-45 at 23:17-24:10.

P80. *California Parties*: Contract path RMR sales should not be subject to mitigation. CAL-54 at 32:1-25.

P81. *NCPA Position*: Sales priced at contract should be excluded from mitigation. The long-term RMR contracts provide a formula rate for determining contract payments, based on NCPA's cost-of-service. NCP-10 at 5:18-6:11. Dr. Berry agrees that cost-of-service transactions should not be mitigated. NCP-14 at 2:16-17. ISO testimony also supports that result. NCP-14 at 2:18-22. The vast majority of NCPA's sales from its combustion turbines were priced at contract, as shown by contemporaneous evidence. NCP-14 at 2:23-5:20; NCP-15 through 20.

ii. Market path pricing.

P82. *ISO Position*: Although RMR Owners who chose to receive payment through the market path assumed a certain risk of spot-market outcomes, they made this choice based on a comparison of their RMR contract rate and the prevailing market prices as they existed at that time, and any decision on whether market path RMR transactions should be mitigated should take these considerations into account. ISO-45 at 23:4-15.

P83. *California Parties*: Market based RMR sales should be subject to mitigation. CAL-54 at 32:1-25.

P84. *NCPA Position*: Sales priced at market should also be excluded from mitigation. The fundamental contractual nature of the transactions does not change simply because a sale is made at market prices rather than cost-of-service. NCP-14 at 5:16-6:11. In addition, NCPA staff only make sales at market when they are sure that market prices

will compensate them for the cost-of-service rates to which NCPA is contractually entitled. NCP-14 at 8:23-29.

3. What other errors, if any, did the ISO make in implementing its settlement reruns?

P85. *Sellers Position:* The MMCPs used by the CAISO in its settlement reruns, filed in October 2001, are incorrect under the Commission's orders. Using the CAISO's data, the effect of replacing the October 2001 MMCPs with the MMCPs the CAISO should have used to comply with the Commission's orders would: (1) decrease total refunds for Uninstructed Energy by \$410 million; (2) decrease total refunds for Instructed Energy by approximately \$450 million; (3) decrease the refund liability of Avista Energy, IDACORP, Puget Sound Energy, and Portland General Electric in the CAISO markets by \$3,808,082.79, \$1,371,120.76, \$2,417,870.18, and \$3,011,320.24 respectively; and (4) increase the amount owed by the Cal PX to Avista Energy, IDACORP, and Portland General Electric by \$212,108.77, \$678,492.39, and \$257,690.98 respectively. SEL-19 at 51:11-52:3, 53:10-54:5, 55:1-6, 55:14-56:2, 56:19-58:20 and Table 3, 59:5-6, 59:11-12 and Table 4, 62:3-4, 62:9-10 and Table 5, 68:9-10, 68:15-16 and Table 6, 72:Table 7; SEL-45 at 3 and Table 2; SEL-31; SEL-32; SEL-33; SEL-34; SEL-35; SEL-36; SEL-37; SEL-38; SEL-40. The CAISO also made quantity errors in its settlement reruns for Puget for the months of October, November, and December 2000 that would increase the CAISO's cash payments to Puget by \$980,191. SEL-19 at 67:1-5; SEL-40, Attachment D. The CAISO also improperly excluded from mitigation certain Portland General Electric transactions with the CAISO, and the mitigation of these transactions increases Portland General's refund obligation by approximately \$3 million. SEL-19 at 69:10-13; SEL-40, Attachment A; SEL-41. Based on data revisions filed by the Cal PX in Exhibits CPX-35 to CPX-40, Dr. Cicchetti replaces his Exhibits SEL-27, SEL-28, and Table 8 in SEL-19 with SEL-46, SEL-47, and Table 2 in SEL-45, respectively. SEL-46, SEL-47, and Table 2 show, among other things, that the total amounts owed to Avista Energy, IDACORP, Puget, and Portland General equal \$21,942,778.94, \$25,524,808.64, \$46,728,607.68, and \$44,764,682.03, respectively. SEL-45 at 2:2-3:7, 3:Table 1, 3:Table 2; SEL-46; SEL-47.

P86. *Dynegy Position:* The ISO improperly included transactions as supplemental energy and then subjected them to mitigation when these transactions were sales to the ISO by Dynegy under a non-spot bilateral contract. DYN-32 at 18:5-19:3; *see* GEN-89 at 34:1-3. The ISO also erred by failing to split the distribution of payments received from CERS during January 2001 in accordance with its filings with the Commission. DYN-16 at 31:1-32:2; DYN-32 at 19:4-21:11.

P87. *PPL Position:* The accuracy of the CAISO's implementation cannot be determined precisely at this time because the ISO has not used its most recent MMCP numbers in its settlement runs, and PPL therefore reserves its right to challenge any implementation errors reflected in updated runs. PPL-18 at 6:11-7:7.

P88. *Redding Position:* Redding experienced substantial problems respecting the ISO's settlements and settlement reruns of Redding's transactions through its scheduling coordinator, Western. As an example, the ISO showed an original credit for Western for December 2000 of \$436,229, which the ISO incorrectly changed in its reruns to a charge to Western of \$33,054,025. The ISO settlements still reflect this error. REU-1 at 12:16-15:17; and REU-6 at 7:1-22.

P89. *SRP Position:* The ISO has not mitigated all spot market transactions during the refund period as required by the Commission's orders. SRP-1 at 7:12-8:2. The ISO has failed to mitigate some ancillary service charges that must be mitigated per the Commission's orders in this proceeding. SRP-1 at 8: 9 (beginning with "In addition")-8:11.

P90. *Western Position:* The ISO failed to properly account for a settlement between the ISO and Western (for SCID WAMP) of an error in CT 401 on Western's (WAMP) December 2000 invoice. WPA-1 at 8:13-11:18.

P91. *LADWP Position:* The ISO erred by applying incorrect MMCPs in implementing its settlement reruns. DWP-21R at 19:21-20:8.

P92. *Vernon Position:* See Vernon individual issue position below (IV.K.1) with respect to ISO's admitted failure to consistently apply mitigation to certain Vernon replacement reserves transactions for June 16, 17, and 18, 2001.

P93. *Powerex Corp. Position:* Both the ISO and Powerex agree that Powerex's 400 MW around the clock transaction from November 23, 2000 to December 3, 2000, and 100 MW around the clock transaction from December 4, 2000 to December 31, 2000, are non-spot transactions. The ISO should correct its settlement reruns to exclude mitigation of non-spot transactions. PWX-56 at 9:16-24; PWX-60; PWX-74 at 3:1-4:20; PWX-75; PWX-76; PWX-77 at 14:8-20; PWX-79.

P94. *Turlock Position:* The ISO applied incorrect MMCPs in its settlement rerun. TID-1 at 3:16-20; 4:1-7; 5:1-8:1, 9:21-12:21; 16:1-16; 20:1-24:14, TID-4, TID-15, TID-17.

B. Did the PX correctly rerun its settlements and billing processes?

P95. *Modesto Irrigation District ("MID") Position:* In the instance where the Presiding Judge or the Commission finds that the PX's data is completely unreliable, MID attaches evidence from MID's internal records showing the transactions made with the ISO. MID-20 at 5:4-7:10; MID-21; MID-22.

P96. *Pinnacle West Companies Position:* The PX has accurately reflected the transactions that occurred between the Pinnacle West Companies and the PX. PNW-6 at 2:22-23; PNW-8 at 1:13-16, CPX-37.

P97. *SET Position:* The data contained in Exhibit CPX-3 and CPX-22 appear to correctly report the transactions entered into by SET in the PX markets that are the subject of this proceeding. SET-1 at 3:19-4:7.

P98. *PS New Mexico Position:* The quantities and premitigation prices of sales by PS New Mexico to the PX during the refund period are accurately reflected in Exhibit CPX-37. PNM-1 at 11:5-8.

P99. *SMUD Position:* The PX's calculation of refund liability for SMUD is incorrect because it erroneously includes amounts for DOE Order sales that should be excluded from refund liability pursuant to the Commission's July 25 Order. SMD-15 at 10:3-11:12; SMD-11; SMD-16; SMD-18.

P100. *LADWP Position:* The PX has accurately reflected the transactions that occurred between LADWP and the PX. DWP-21R at 23:10-11.

1. Congestion

a. How, if at all, should the PX have dealt with congestion in its markets, including Congestion Usage Charges?

P101. *CalPX Position:* CalPX correctly applied a refund methodology that did not result in congestion charges (Usage Charge Payments to the ISO) being mitigated. CPX-41 at 7-13.

P102. *California Generators Position:* The PX should follow its existing zonal Congestion Management methodology, approved by the Commission in its April 6, 2001 order, to allocate congestion costs on a zonal basis. GEN-83 at 7:1-16:9.

P103. *Powerex Corp. Position:* The PX should not have treated congestion costs as being subject to mitigation and mitigated the Zonal Market Clearing Prices ("ZMCPs") because congestion is a transmission, not an energy charge that is not subject to mitigation. The PX's treatment of this issue is inconsistent with the Commission's orders and with the ISO's exclusion of congestion from mitigation. The method applied by the PX directly for individual participants in the market mitigates congestion payments or charges for individual participants in the market and not just energy charges as required under the Commission's orders. Mitigating the UMCP instead of the ZMCP will not lead to unjust and unreasonable results, distort the settlements process, nor lead to an over or under-recovery of costs. Moreover, the PX and California Parties misunderstand Powerex's testimony on this issue, whereby the MMCPs are applied in the PX markets while keeping the ISO whole with respect to congestion payments. Powerex's testimony does not propose a method whereby the transmission usage charges would be set equal to the difference between the UMCP and ZMCP, except for the situation where one of the zonal MCPs is in fact equal to the UMCP, so that this difference does equal the usage

charge. Powerex proposes to mitigate the UMCP, *and then reapply the differences between the unmitigated MCP and the original ZMCP*, so that when the difference between any two ZMCP values is taken, the result is the same usage charge value. This process retains the PX's original zonal price differential due to congestion. In addition, because the demand and supply volumes are the same in most instances, the PX collects sufficient refunds to pay buyers without resulting in a shortfall, that in turn required the PX to develop and apply their new allocation algorithm. PWX-53 at 21:10-23:11; PWX-55 at 20:15-26:7; PWX-77 at 3:12-6:15; PWX-78; PWX-80 at 3:8-10:21; PWX-81.

P104. *Staff Position*: Ms Patterson discussed inconsistencies in the ISO's and CalPX's mitigation of congestion-related charges. S-95 at 5:16-8:20.

P105. *Vernon Position*: Congestion charges paid to the PX should not be mitigated and are not a basis for refund purposes for treating on a gross basis sales by an entity as a provider of services separately from purchases by an entity as a recipient of services. VER-1 at 11:11-18; VER-10 at 4:5-14, 7:1-8:19, 13:1-16:4; VER-11 at 8:8-9:17. Contrary to the PX's latest proposal, the PX's previous Period 2 treatment (which is Commission approved) should be consistently applied across the refund entire period to Period 1 as well as to Period 2. VER-11 at 2:9-9:17.

b. Should the PX have based its calculations on unconstrained market clearing prices?

P106. *CalPX Position*: CalPX correctly applied a refund methodology that did not result in congestion charges (Usage Charge Payments to the ISO) being mitigated. CPX-41 at 7-13.

P107. *California Parties Position*: No. During hours in which separate zonal market clearing prices were charged in the PX markets, the PX was correct to calculate refunds based on the zonal market clearing prices. CAL-53 at 9:23-13:3.

P108. *PGET Position*: The PX should not base its calculations on UMCPs since they had no direct relationship with the actual settlement price (the ZMCP) in the presence of transmission congestion. Refund calculations should be based on the difference between the actual settlement price and the MMCP. Using the UMCPs would understate or overstate refunds for individual sellers and buyers. PGET-3 at 4:3-7:10.

P109. *Powerex Corp. Position*: Because the ISO markets treat the energy and congestion markets separately, the PX should not have mitigated congestion along with energy as it did when it mitigated the ZMCPs. Instead, to avoid the potential for any shortfall, the PX simply can mitigate the Unconstrained Market Clearing Prices ("UMCPs"). PWX-53 at 23:12-25:20; PWX-56 at 19:19-26:7, 29:1-33:4. Mitigating the UMCPs is the only way to avoid mitigating transmission charges. The method applied by the PX directly for individual participants in the market mitigates congestion

payments or charges for individual participants in the market and not just energy charges as required under the Commission's orders. Mitigating the UMCP instead of the ZMCP will not lead to unjust and unreasonable results, distort the settlements process, nor lead to an over or under-recovery of costs. Moreover, the PX and California Parties misunderstand Powerex's testimony on this issue, whereby the MMCPs are applied in the PX markets while keeping the ISO whole with respect to congestion payments. Powerex's testimony does not propose a method whereby the transmission usage charges would be set equal to the difference between the UMCP and ZMCP, except for the situation where one of the zonal MCPs is in fact equal to the UMCP, so that this difference does equal the usage charge. Powerex proposes to mitigate the UMCP, *and then reapply the differences between the unmitigated MCP and the original ZMCP*, so that when the difference between any two ZMCP values is taken, the result is the same usage charge value. This process retains the PX's original zonal price differential due to congestion. In addition, because the demand and supply volumes are the same in most instances, the PX collects sufficient refunds to pay buyers without resulting in a shortfall, that in turn required the PX to develop and apply their new allocation algorithm. PWX-77 at 3:12-6:15; PWX-78; PWX-80 at 3:8-10:21; PWX-81.

c. How should congestion-related shortfalls in the PX markets be allocated?

P110. *CalPX Position:* CalPX correctly applied a refund methodology that did not result in congestion charges (Usage Charge Payments to the ISO) being mitigated. CPX-41 at 7-13.

P111. *California Parties Position:* Congestion shortfalls should be allocated to PX sellers to ensure that PX buyers are not charged unjust and unreasonable rates. CAL-35 at 8:8-9:22. If any of the congestion shortfalls are to be allocated to PX customers, they should be allocated in proportion to each PX customer's share of total refunds for the month in the PX operated markets, regardless of the zone where the PX customer is located. CAL-35 at 10:1-10:11; CAL-82 at 5:18-11:10.

P112. *California Generators Position:* There are no congestion-related shortfalls in the PX markets when the PX follows its existing zonal Congestion Management methodology, approved by the Commission in its April 6, 2001 order, to allocate congestion costs on a zonal basis. Buyers in the congested zone are not being charged unjust and unreasonable rates as a result of paying for the congestion transportation charges to bring power to their zone. GEN-83 at 12:9-21.

P113. *Powerex Corp. Position:* If the PX simply mitigates the UMCPs, there will be no shortfalls. PWX-56 at 25:17-26:7, PWX-74 at 6:1-15; PWX-77 at 3:12-6:15; PWX-78; PWX-80 at 3:8-10:21; PWX-81.

P114. *SRP Position:* Buyers must not be allocated any portion of congestion-related refund shortfalls. The Federal Power Act prohibits the collection of unjust and unreasonable rates, and the Commission has established the MMCP as the maximum just and reasonable rate in this proceeding. Hence, buyers must be refunded all amounts above the MMCP. SRP-1 at 9:3-14:26; SRP-5 at 13:11-14:13; SRP-8 at 11:18-17:16. The PX's allocation of refund shortfalls to buyers is inconsistent with the PX's Tariff provision governing the reconciliation of discrepancies between amounts paid to the PX and amounts owed by the PX; if the PX followed its Tariff, cash shortfalls would be allocated to suppliers, rather than buyers. SRP-1 at 14:4-14:26; SRP-8 at 14:7-15:4. Section 5.3 of the PX Tariff, which governs these discrepancies, has not been eliminated. SRP-8 at 15:5-17:5.

P115. *Vernon Position:* See Vernon position at I. B.1.a., above. The PX's treatment of congestion contributes to this shortfall by creating what may be, in effect, an inappropriate refund of dollars to buyers for congestion payments. VER-1 at 11:11-18. Congestion-related shortfalls associated with particular zones should not be re-allocated system-wide. VER-10 at 4:5-14, 7:1-8:19.

2. Block Forwards – How should Block Forward Transactions be handled and how, if at all, should that affect the mitigation of PX Day-Ahead Transactions?

P116. *CalPX Position:* The CalPX method used was the same as ordered by the Commission in the April 6, 2001 order on implementing the Breakpoint adjustments. CPX-35 at 10-11; 24-27 and CPX-41 at 2-7.

P117. *California Parties Position:* The PX has improperly excluded volumes from the Day-Ahead market to reflect transactions occurring in the completely separate CTS Block Forward market. Such treatment is inconsistent with FERC Orders, the CTS Tariff, the CTS Information Guide and the PX Tariff. The scope of the Refund Proceeding is limited to all sales in the spot markets, and all spot market volumes should be included in the refund obligation. The PX should add the improperly excluded volumes back into the Day-Ahead volumes and re-run the refund obligation. CAL-48 at 4:9-20:5; CAL-58 at 3:11-5:6; CAL-86 at 3:7-9:2.

P118. *California Generators Position:* The PX should assure that Block Forward Transactions are not affected by mitigation of PX Day-Ahead transactions as part of this proceeding. The PX should accomplish this by backing out Block Forward Transactions from its settlement rerun of spot transactions in the Day-Ahead market in accordance with its existing Commission-approved methodology based on the April 6, 2001 order. GEN-83 at 19:11-27:10; GEN-89 at 14:1-16:7.

P119. *Sellers Position:* The CTS block forward contracts were entered into during the month or quarter prior to delivery. Consequently, by definition, these contracts are not

spot contracts because they were entered into more than 24 hours before delivery. The fact that prices were tied to the Cal PX Day Ahead market is irrelevant. SEL-42 at 40:24–43:2. The Commission should reject the refund methodology regarding block forward contracts proposed by the California Parties and should instead adopt the methodology proposed by the CalPX. SEL-48 at 20:8–22:19.

P120. *Staff Position:* Ms. Patterson discussed the CalPX's treatment of Block Forward transactions and concluded that the portion of those transactions which was bid into the PX's Day-Ahead market should be subject to mitigation. S-95 at 21:3-27:15. The Commission's July 25 order did not exempt the Day-Ahead Market component of Block Forward contracts. S-116 at 17:1-18-3. If CTS volumes are removed, they will not bear a proportionate share of any cash shortfalls. Ms. Koyano has not quantified the cost of resettling the CTS market. S-116 at 18 4-18.

3. Application of Breakpoint – Did the PX properly apply the \$150/MWh breakpoint for January 2001 transactions?

P121. *CalPX Position:* This was completed in May 2001 with CalPX's compliance filing and should not be addressed here. The issue for this proceeding is the refund method used by CalPX as directed by the May 2002 Commission order. CPX-35 at 18-24.

P122. *Sellers Position:* No. The Commission has determined that the implementation of the \$150 breakpoint was superseded by the mitigation methodology established in its July 25, 2001 order. In order to comply with the Commission's intent to reset market prices back to their original settlement level before applying mitigation methodology adopted in the Commission's July 25, 2001 order, Cal PX must reset and APX must pass through to its market participants January 2001 transaction prices that reflect the original settlement prices without application of the superseded \$150.00 breakpoint. SEL-42 at 29:4–34:21; SEL-48 at 9:23–13:8. MLCS has filed a proof of claim for \$9,371,434.25 for short payments associated with the erroneous application of the breakpoint and Cal PX chargebacks. SEL-19 at 35:9–38:2.

P123. *MSCG Position:* CalPX has improperly applied the \$150.00 breakpoint to January 2001 transactions in the day-ahead and day-of markets because the Commission ordered that the July 25, 2001 refund methodology supercedes the breakpoint. (MSC-1 at 7:9-8:6; MSC-2 at 4:21-6:17. CalPX must reset, and APX must pass through to its market participants, January 2001 transaction prices for purchases and sales to reflect CalPX's original settlement prices (*e.g.*, zonal or unconstrained market clearing prices) as a precursor to the presiding ALJ or the Commission applying the appropriate mitigated market clearing prices ("MMCP") and to eliminate the inequitable impact associated with CalPX's application of the \$150.00 breakpoint on the prices MSCG paid for power in the CalPX markets during January 2001. (MSC-2 at 7:19-8:11. Due to the breakpoint,

CalPX undervalued and APX underpaid MSCG by \$1,227,339 for MSCG's January 2001 CalPX transactions. (MSC-1 at 8:1-6; MSC-2 at 7:15-17.

4. Spot Transactions – Should certain short-term (24 hours or less) bilateral sales to the PX be exempt from mitigation, and if so, which transactions?

P124. *CalPX Position:* If there are such transactions to be adjusted out of the refund process, CalPX needs to know this information by resource, by day, by hour and by zone to be able to remove such transactions from its refund calculations.

P125. *California Parties Position:* All sales to the PX core markets should be mitigated. CAL-40 at 3:14-7:23; CAL-54 at 20:3-31:6.

5. Where a participant has both sales and purchases within the same zone, within the same hour, and within the same market, e.g., PX Day-Ahead Market, should the net purchase or sale for that hour, rather than gross sales and purchases, be used in the calculation of refunds and apportionment of shortfalls in refunds among purchasers?

P126. *CalPX Position:* The CalPX Day-Ahead and Day-Of Markets operated as a pool such that buyers and sellers were transacting with CalPX and not each other. Therefore, refunds from suppliers should be allocated for the benefit of all buyers.

P127. *Powerex Corp. Position:* If the PX simply mitigates the UMCPs, there will be no shortfalls. PWX-56 at 25:17-26:7, PWX-74 at 6:1-15; PWX-77 at 3:12-6:15; PWX-78; PWX-80 at 3:8-10:21; PWX-81.

P128. *Vernon Position:* Where a participant has both sales and purchases within the same zone, within the same hour, and within the same market (e.g., PX Day-Ahead Market), the net purchase or sale for that hour, rather than gross sales and purchases, should be used in the calculation of refunds and apportionment of shortfalls in refunds among purchasers. VER-1 at 12:15-17:18, VER-10 at 12:15-17:18; VER-11 at 8:8-9:17. The PX's treatment of investor-owned utility overschedules at the PX is consistent with Vernon's proposal. Given this fact, to treat Vernon and others hourly schedules on a separate gross basis would be impermissibly, unduly discriminatory. VER-11 at 11:1-13:18. appropriate netting would reduce refunds owed by Vernon to the PX by approximately \$275,000 – from \$450,000 to \$175,000. VER-11 at 13:14-18.

6. Errors – What other errors, if any, did the PX make in implementing its refund methodology?

P129. *California Parties Position:* The PX has implemented an "overscheduling" adjustment to try to remove the IOU supplied generation and load from the refund

calculation. However, the PX's adjustment contains obvious errors, including adjustments made in inactive zones not used during the refund period. The PX application of the adjustment also yields anomalous results when applied in conjunction with the CTS adjustment. Although the PX purports to correct "overscheduling" and SCE ID adjustments, the PX has not provided back up data and other adjustments are still pending. Accordingly, the California Parties reserve their rights to supplement the existing record as necessary to address and challenge the PX's ongoing adjustments. However, even if the PX corrects their adjustment errors, the calculations will not be fixed until the CTS adjustment is reversed. CAL-58 at 5:7-10:19; CAL-86 at 9:3-11:25.

P130. *LADWP Position*: The PX erred by applying the MMCP as calculated by the ISO. DWP-21R at 21:11-22:14.

C. Other Amounts

1. PX Default Chargebacks – How should default chargeback amounts held by the PX, inclusive of interest, if any, be treated?

P131. *CalPX Position*: CalPX describes in CPX-43 the chargeback issues and states that these amounts are not in the Settlement Clearing Account, are held in a separate Bank Account that has earned interest. These amounts need to be refunded with the interest earned allocated among these Participants. CPX-43 at 8-10 and CPX-46.

P132. *California Parties Position*: Any determination of what the payment priorities should be concerning the distribution of funds being held by the PX should await a Commission order on refunds of unjust and unreasonable charges and should be contingent on the seller having sufficient funds to pay the ordered refunds. CAL-53 at 21:1-21:17.

P133. *Sellers Position*: All Cal PX imposed chargeback amounts should be added to each participant's amount due from the Cal PX post-mitigation. In the case of IDACORP, Avista Energy, Inc., and Portland General Electric, those amounts are \$2,271,867, \$55,483.41 and \$9,280.27 respectively. Furthermore, because the \$2,271,867 owed to IDACORP was paid in cash by IDACORP, and because the Cal PX is holding \$15 million in a segregated account from chargeback monies paid in cash by individual Cal PX participants, IDACORP is owed \$2,271,867 of that \$15 million. SEL-19 at 31:7–32:1; SEL-24. MLCS has filed a proof of claim for \$9,371,434.25 for short payments associated with the erroneous application of the breakpoint and Cal PX chargebacks. SEL-19 at 35:9–38:2.

P134. *Powerex Corp. Position*: Amounts associated with the PX's implementation of the PX default chargeback mechanism should be included as an offset from the pre-mitigation cash position of market participants. PWX-53 at 14:16-19; PWX-72 at 4:19-5:8. Chargebacks amounts can be distributed to the affected parties separately and not

treated as an offset in the PX settlement accounts, but chargebacks must remain as amounts owed to market participants for the refund period, and therefore, cannot be entirely excluded from this proceeding until they are in fact paid to participants. PWX-77 at 14:21-15:2.

P135. *AES Position*: Default chargebacks, inclusive of interest, should be offset against refund liability. AES-2 at 11:19-23; AES-5 at 3:22-4:6.

P136. *Coral Position*: Chargeback payments, inclusive of interest, paid by Coral to the PX should be treated as an offset against any refunds that Coral is ordered to provide in this proceeding. COR-23 at 3:5-12, 5:21-9:10; COR-25; COR-26; COR-28 at 4. Because the chargebacks have been found to be unlawful and arose for reasons other than market activity, the PX should refund to Coral all chargeback amounts that Coral previously paid prior to the allocation of funds held by the PX that are related to market activity. COR-23 at 3:5-12, 9:11-10:21; COR-27; COR-29.

P137. *Staff Position*: Chargeback amounts should be distributed to the affected parties separately and not treated as an offset to amounts due as a result of price mitigation. S-106 at 35:5-36:2.

2. [Removed]

II. WHAT EMISSIONS AMOUNTS SHOULD BE OFFSET AGAINST REFUND CALCULATIONS?

A. Which emissions amounts, if any, should be offset against refund calculations?

P138. *California Parties Position*: For any seller found to be eligible to claim offsets, only costs which are incurred as a direct result of emissions can be recovered, those costs are to be spread over all generation in the emissions permit compliance period, and the recoverable portion are those allocated to mitigated ISO and PX sales only. CAL-59 at 16:19-26:5; 26:19-44:13; 44:14-46:2. Emissions costs recovered through RMR invoices must be deducted from the total eligible emissions costs. CAL-59 at 26:22-27:2. California Parties' emissions cost allocation method is dictated by the Commission's orders in this proceeding. CAL-59 at 4:4-16:18.

P139. *California Generators Position*: Sellers are permitted to offset their refund obligation by the amount of their emissions costs related to sales to the ISO and PX. GEN-83 at 32:12-15. The methodologies used by the California Generators to determine their respective recoverable emissions costs are reasonable, consistent with Commission policies on pricing services based on incremental costs and consistent with each other. GEN-35 at 5:4-7, 15:3-11.

P140. *Dynegy Position:* West Coast Power incurred emissions costs of \$14,420,802 as a result of sales into ISO and PX markets during the period from October 2, 2000 through June 20, 2001, and these costs should be offset from any refund obligation for Dynegy established in this proceeding. DYN-16 at 4:9-10; DYN-32 at 2:13-24.

P141. *Reliant Position:* The total emissions costs the Reliant Energy Companies have incurred in connection with sales into the ISO and PX markets during the period from October 2, 2000 through June 20, 2001 is \$21,583,319.86. REC-9 at 10:8-10; REC-11; REC-15 at 2:19-3:5. These costs are properly calculated and allocated to the ISO and PX sales based on a FIFO inventory methodology and a priority of dispatch methodology. REC-9 at 7:10-10:8; REC-15 at 5:10-9:20. An alternative calculation of total emissions costs incurred by the Reliant Energy Companies in connection with sales into the ISO and PX markets during the refund period, using a pro rata allocation between PX and bilateral sales, would change the Reliant Energy Companies' total claim for emissions costs and penalties to \$18,286,180.34. REC-15 at 10:3-16; REC-17.

P142. *Williams Position:* Williams incurred a total of \$18,044,072 in emissions costs in connection with sales into the ISO markets during the relevant refund period. These costs should be applied against any refunds or offsets that may be ordered in these proceedings. DME-31 at 4:3-14; DME-32 at 9:13-12:10, 12:20-13:13, and 14:1-14; DME-33; DME-35 at 3:20-5:1; DME-36.

P143. *Duke Energy Position:* Duke Energy is entitled to an offset for the entire \$100,000 it paid in mitigation fees to make additional generation available for ISO-dispatch in late December 2000. DUK-16 at 5:6-6:17.

P144. *Burbank Position:* Burbank's NO_x costs should be offset against refund calculations. BUR-4 at 11:1-15:10; BUR-7.

P145. *Harbor Position:* Harbor provided evidence of its emission costs to be used as offsets.

P146. *Pasadena Position:* Pasadena incurred costs of \$900,964.95 to purchase emissions credits specifically to serve the ISO. PAS-6 at 8:17-11:13; PAS-7. Pasadena also incurred lost opportunity costs, i.e., the opportunity to sell credits in the market that instead had to be used for sales to the ISO, in the amount of \$911,329.78. PAS-6 at 8:21-22 and 11:15-12:8. Pasadena's costs should be allocated to sales to the ISO during the refund period. PAS-8 at 2:4-3:20. Load serving entities are eligible to receive offsets for emissions costs. PAS-8 at 4:1-14. Opportunity costs are demonstrable emissions costs. PAS-8 at 5:3-6:17. Pasadena correctly allocated between ISO sales and non-ISO sales. PAS-8 at 7:1-9.

P147. *LADWP Position:* LADWP is a load serving entity with obligations to minimize costs to its native load customers. DWP-40 at 18:11-19 & 19:13-19. Because LADWP

had sufficient NOx emissions allowances to meet its native load requirements, and incurred NOx emissions costs solely to be able to supply energy to California wholesale markets, those costs should not be allocated to LADWP's native load sales. DWP-21R at 27:10-28:16; DWP-40 at 19:13-20:2. LADWP incurred \$6,753,841 in purchasing emissions credits allocable to its sales to the ISO and PX during the refund period. DWP-11 at 3:13-5:15; DWP-12; DWP-21R at 27:10-30:13; DWP-36. LADWP also incurred \$8,291,445 in compliance fees determined under a settlement with the South Coast Air Quality Management District to cover anticipated NOx emissions resulting from sales to the ISO and PX during the refund period. DWP-11 at 5:16-8:19; DWP-13; DWP-14; DWP-21R at 30:14 –31:12; DWP-37; DWP-40 at 18:20-21:17. However, only that portion of the \$15,046,286 in total emissions costs and environmental compliance fees that are associated with sales determined by the Commission to be subject to mitigation should be offset against any LADWP refund liability calculated under the Commission's orders. DWP-21R at 31:13-18 & 32:1-11.

P148. *Staff Position:*

- P149. *Burbank.* Mr. Poffenberger was not able to determine whether Burbank's allocation of NOx emissions costs to the ISO and PX are reasonable. S-108 at 9:17-18.
- P150. *Duke* has supported its claimed ISO NOx emissions costs of \$137,656, S-108 at 13:7-8, but emissions costs based on units exceeding annual limits will need to be allocated to those hours where the original market clearing price is being mitigated. S-11 at 11:9-23.
- P151. *Dynegy* should be allowed to claim ISO and PX emissions costs of \$14,413,489 as an offset to its refund liability. S-108 at 22:7-9.
- P152. *Reliant.* Mr. Siems recommends that the emissions costs be allocated pro-rata across the combined PX and bilateral sales. S-114 at 12:16-15:16.
- P153. *LADWP's* allocations appears reasonable if LADWP is viewed as a load serving entity with obligations to minimize costs to its franchise customers. S-114 at 21:12-22:8. If the Commission treats LADWP like other market participants, then LADWP should be required to allocate its claimed emission costs over its native load sales as well. LADWP should not have re-priced its free RTC's at the weighted average cost of the RTCs that it purchased. S-114 at 22:9-23:23.
- P154. *Pasadena.* Mr. Siems disagrees with Pasadena's claim of opportunity costs, and questions whether some of its purchased RTCs should be assigned to non-native-load, non-ISO parties. S-114 at 23:24-26:17.

P155. *Williams.* Mr. Poffenberger concluded that Williams had adequately demonstrated its ISO emissions costs of \$18 million incurred during the refund period. S-122 at 5:16-20. Mr. Poffenberger notes that as with all claims for emissions cost offsets, Williams' emissions cost claim will be subject to a final determination of the mitigated and non-mitigated hours. S-122 at 6:2-3.

P156. *California Parties.* Mr. Poffenberger takes issue with Dr. McCann's position regarding what constitutes eligible emissions costs. He was unable to evaluate the costs or the underlying methodology Dr. McCann used in Exhibit Nos. CAL-80 and CAL-81, because of lack of supporting work papers. Staff received a CD on August 7, 2002, too late for analysis before the testimony deadline. S-122 at 2:7-4:15.

B. How should emissions costs be applied?

P157. *CalPX Position:* Emission costs must be allocated between the ISO and PX for a generating unit that supplied both markets. For CalPX to process these emission costs in the refund process these costs must be identified by resource, by day, by hour and by zone and then be allocated to the buyers. CPX-42 at 3-4.

P158. *California Parties Position:* Emissions costs should be allocated to all buyers based on their total monthly kilowatt hours purchased from the ISO and PX, including exports from the ISO control area. CAL-35 at 10:12-10:18. In making this allocation, a market participant's purchases should not be netted against its sales so that a market participant that both sold and purchased energy in a month will be allocated the proper amount of emissions costs associated with its purchases. CAL-35 at 7:7-8:23. A reasonable way to implement this proposal would be to allocate emissions costs based on gross ISO control area load plus exports to other control areas both in-state and out-of-state. CAL-82 at 11:12-13:17.

P159. *California Generators Position:* Emissions costs should be treated as an uplift payment to suppliers by all customers in California in proportion to gross ISO control area load. The emissions costs associated with the combined ISO and PX markets should be applied as an offset in the ISO market to facilitate allocating these costs to all customers in California. GEN-36 at 7:11-16; GEN-83 at 32:15-33:15.

P160. *Powerex Corp. Position:* Emission costs should be assessed against all in-state load served on the ISO's transmission system as directed by the Commission. When emissions are allocated in this manner, it is unnecessary to separate purchases and sales. Emission costs should not be allocated to exports in addition to in-state load as proposed by Dr. Stern. PWX-74 at 7:4-21.

P161. *Burbank Position:* Burbank's NOx costs for the Refund Period should be applied against its costs. BUR-4 at 11:1-15:10.

P162. *SRP Position*: Emissions costs should be used to offset refund liabilities only in the specific PX and ISO markets in which such costs were incurred. SRP-1 at 22:3-24:22.

P163. *LADWP Position*: Only that portion of LADWP's emissions costs and environmental compliance fees that are associated with sales determined by the Commission to be subject to mitigation should be offset against any LADWP refund liability calculated under the Commission's orders. DWP-21R at 32:1-11.

P164. *Vernon position*: Emissions costs are not a basis for treating for refund purposes on a gross basis entities as providers of services separately from entities as recipients of services VER-10 at 13:1-16:4.

III. WHAT REFUND AMOUNTS ARE OWED BY EACH SUPPLIER, AND WHAT AMOUNTS ARE CURRENTLY OWED TO EACH SUPPLIER BY THE ISO, THE PX, THE INVESTOR OWNED UTILITIES, AND THE STATE OF CALIFORNIA?

P165. *California Generators Position*: Illustrative calculations of refund amounts owed by suppliers, and amounts currently owed to suppliers, are shown in Exhibits GEN-93 through GEN-104.

P166. *Duke Energy's Position*: The ISO understated the amount that Duke energy is owed, prior to any mitigation, because of the improper manner in which it computed interest only on DETM's accounts payable and not on its accounts receivable. DUK-14 at 4:6-5:2. The PX overstated the amount that Duke Energy is owed prior to any mitigation. DUK-14 at 6:7-7:15. The PX also did not calculate the interest that Duke is owed. DUK-14 at 8:1-15. Duke Energy is owed money for Block Forward volumes, Day-Ahead volumes, and for a credit for chargebacks that it previously paid. DUK-14 at 9:1-12:5. Duke Energy is owed, and has not been paid, \$266,258,207 in ISO obligations for sales into the ISO spot markets during the refund period. DUK-14 at 3:19. Duke Energy is owed \$25,827,014 in interest for its net unpaid ISO receivables as of July 3, 2002. DUK-14 at 5:11. Duke Energy is owed, and has not been paid, \$41,373,893 for sales into, or settled through, the PX spot markets. DUK-14 at 6:8. Duke Energy is owed \$4,343,540 in interest for its net unpaid PX receivables as of July 3, 2002. DUK-14 at 8:13.

P167. *Dynegy position*: With certain limited exceptions, Dynegy generally agrees with the pre-mitigation amounts owed to Dynegy as listed in Exhibits ISO-32 and CPX-26. The ISO and PX understate the amount that Dynegy is owed, prior to mitigation, because they failed to apply the FERC interest rate to amounts owed to suppliers. Also, Exhibit CPX-26 improperly reflects an alleged overpayment to Dynegy of \$7,474,450, which was never received by Dynegy. Dynegy reserves the right to object to settlement reruns proposed by the ISO for certain dates during the refund period, as well as the outcome of

pending or future settlement disputes that might affect ISO invoices. DYN-16 at 29:1-30:19.

P168. *Mirant Position:* Prior to requiring Mirant to refund any amounts calculated in this proceeding, any past-due amounts owed to Mirant in the ISO and PX markets, inclusive of interest, must be allocated to Mirant so that any refund liability can be offset against the amount owed to Mirant. MIR-20 at 2:8-12; MIR-21. Mirant calculates that it is currently owed, prior to any mitigation, and exclusive of interest \$218,696,897.32 as a result of transactions in the ISO markets, and \$73,061,104.87 as a result of transactions in the PX markets. MIR-20 at 2:8-12; MIR-21. In the case of the PX markets, this figure is also exclusive of any breakpoint adjustment. MIR-20 at 2:8-12.

P169. *Reliant Position:* The Reliant Energy Companies are owed, and have not been paid, \$96,570,754 for sales into the PX markets during the refund period, as shown on the PX's pre-mitigated settlement statements. REC-15 at 4:13-15. The Reliant Energy Companies are owed, and have not been paid, \$222,968,625.47 for sales into the ISO markets during the refund period, according to the ISO's uncorrected, pre-mitigated settlement statements. REC-15 at 4:19-23. These amounts do not include interest owing on unpaid amounts.

P170. *Williams Position:* With regard to the relevant refund period, Williams is currently owed the following pre-mitigation amounts: \$288.72 million for energy and ancillary services sold into the ISO spot market (which includes ISO amounts in dispute); and \$31.67 million for energy sold into the PX spot market. The PX also remains in possession of \$2.9 million that Williams paid the PX in chargebacks during the refund period. These amounts do not include interest owing on unpaid amounts. DME-31 at 8:4-17, 10:8-9; DME-34.

P171. *NCPA Position:* NCPA is owed approximately \$11 million dollars by the ISO, the PX, and PG&E. NCP-10 at 12-17. These include amounts owed by PG&E for Emergency Service Agreement Sales (\$3,225,328) and imbalance energy (\$2,484,725); amounts owed by the ISO for ancillary services (\$4,712,782) and RMR availability payments (\$380,557); and amounts owed by the PX (\$262,561). NCP-10 at 7:18-8:20; NCP-11; NCP-12; NCP-13. Exhibit ISO-42 erroneously excludes the amounts for RMR payments invoiced to the ISO and unpaid because of PG&E's bankruptcy. NCP-14 at 9:5-19; NCP-24; NCP-25.

P172. *SMUD Position:* SMUD is currently owed approximately \$39.7 million in unpaid balances for past sales of energy and capacity it made directly to the ISO and through the PX. The ISO has incorrectly excluded amounts due to SMUD in unpaid invoices for sales SMUD made to the ISO during the refund period. SMD-15 at 7:17-20; 12:6-15:12; SMD-17; SMD-18; SMD-20 at 14:9-15:20.

P173. *Grant PUD Position:* Grant PUD has been paid \$702,591.79 by the ISO, but it is still owed \$17,804,708.91 based on pre-mitigated prices. GCP-1 at 7:1-3.

P174. *Southern Cities Position:* The City of Anaheim has paid all of its pre-mitigated financial obligations to the ISO, SOC-10 at 2:23, and is owed \$756,890.20 by the ISO, based on pre-mitigated prices, SOC-10 at 3:3-4. The City of Azusa has paid all of its pre-mitigated financial obligations to the ISO, SOC-11 at 3:9, and is owed \$106,510.82 by the ISO, based on pre-mitigated prices, SOC-11 at 3:12-13. The City of Banning has paid all of its pre-mitigated financial obligations to the ISO, SOC-12 at 3:10, has been paid for all of its transactions with the ISO, SOC-12 at 3:12, and did not directly engage in any transactions with the California PX, SOC-12 at 3:14-17. The City of Riverside has paid all of its pre-mitigated financial obligations to the ISO, SOC-13 at 2:23, and is owed \$323,714.45 by the ISO and \$1,321,436.63 by the California PX, based on pre-mitigated prices. SOC-13 at 3:3-4.

P175. *Enron Position:* Enron stipulated that the ISO markets owe Enron Power Marketing Inc. \$43,435,463.47 and Enron Energy Services \$115,352.20 in accounts receivable as calculated by the ISO. ISO-32; ISO-42; Enron Trial Stipulation, dated July 3, 2002, at 1. These amounts should be used as an offset to Enron's refund liability, if any, in the ISO markets.

P176. *Calpine Position:* Calpine Energy Services, L.P. is still owed \$1,449,974 by the PX and \$1,921,786 by the ISO for services provided during the refund period. CES-1 at 2:12-13. After offsetting an amount owed to the ISO, Geysers Power Company, LLC is owed by the ISO for RMR services a net amount of \$1,814,280. CES-1 at 3:6-8. The foregoing amounts do not include interest. CES-1 at 2:13, 3:8.

P177. *Western Position:* Western's accounting records show past due accounts receivable for its Montrose Marketing Office of \$1,185,757.34 from the PX and \$2,612,855.60 from the ISO. For Western's Sierra Nevada Regional Office, the records show past due accounts receivable from the PX of \$4,104,767.46. WPA-1 at 13:4-17. As for the amount owing to Western's Sierra Nevada Regional Office from the ISO, ongoing dispute resolution makes the number difficult to calculate. Western believes the figure given by the ISO in exhibit ISO-32 of \$2,034,497.92 to be incorrect and to be actually lower, a net number in excess of \$1,000,000.00. WPA-1 at 14:10-21.

P178. *Glendale Position:* Premitigation dollars owed is \$10,432,764 of which Glendale has been paid only \$4,500,235 leaving \$5,932,528 outstanding. GLN-4 at 10:4-12:10; GLN-5A, 5B, 5C, 5D, 5E, 6, 7, and 8.

P179. *Turlock Position:* Turlock is owed \$4,768,585.20 from the ISO. TID-1 at 20:1-24:5; TID-2, 3A, 3B, 3C, and 4.

P180. *Burbank Position*: Burbank is owed \$6,570,818 for its sales to the ISO and \$21,324 for its sales to the PX. BUR-4 at 16:4-22; BUR-5, 6A, 6B, 6C, and 7.

P181. *Imperial Position*: IID made no sales to the ISO or PX and does not owe refunds. IID-1 at 1:17-9:21.

A. How should refunds and amounts owed and owing be computed?

P182. *ISO Position*: The ISO has determined refund amounts owed pursuant to the methodology set forth in the Direct Testimony of Spence Gerber. ISO-24 at 22:9-33:4; ISO-37 at 119:11-22; ISO-45 at 31:1-15.

P183. *CalPX Position*: Refunds are calculated by the ISO and CalPX. Amounts owed are shown as the unpaid amounts in the CalPX market on CPX-34 and the Account summaries CPX-32, CPX-31 and CPX-33.

P184. *California Parties Position*: Following a Commission order adopting a final set of MMCPs, approving emissions costs and resolving various disputed issues that are being litigated in this proceeding, and after ISO and PX settlements are rerun, (1) any buyers that have unpaid invoices should be found to owe a pro rata share of the unpaid invoices to each supplier in proportion to each supplier's share of total underpayments, and (2) each supplier that owes refunds should be found to owe a pro rata share of its refund obligation to each buyer in proportion to each buyer's share of total refunds due. The result of this calculation should be a matrix of amounts owed and owing, separately stated, among each supplier, the Investor Owned Utilities, the State of California, and the ISO. CAL-35 at 5:7-7:6.

P185. *California Generators Position*: Refund obligations as offsets to amounts owed should be calculated as the difference between corrected pre-mitigation and post-mitigation obligations with reductions associated with emissions costs, which are allocated in proportion to gross control area load. The corrected pre-mitigation obligations should include corrections associated with out-of-sequence non-congestion mis-logging and the resolution of disputes to the extent possible, and should be aggregated on a trade date basis. Amounts currently owed should be calculated based on the same corrected pre-mitigation obligations and all cash transfers with the ISO and PX. All refunds and amounts are with respect to the ISO and PX markets. No bilateral obligations among participants exist. However, the Commission could decide to create bilateral obligations after refunds are applied as offsets to amounts owed at the market level to facilitate bankruptcy claims and settlements. GEN-36 at 8:10-14; GEN-83 at 30:20-21, 35:17-36:7; GEN-89 at 41:4-51:2.

P186. *Sellers Position*: To finally arrange for sellers to be paid, the Commission needs to: (1) set final hourly MMCPs; (2) remove non-spot transactions and DOE transactions from the universe of transactions subject to mitigation in this proceeding; (3) identify the

CAISO charge types that are subject to refund mitigation; (4) determine a set of applicable quantities for buyers and sellers so that the CAISO and the Cal PX can be directed to run pre price mitigation settlements and rerun them against settlements using final hourly MMCPs in order to quantify the refund obligation adjustment for each market participant; (5) determine interest on payments past due; (6) apply the refund adjustments to a Commission verified cash position for each market participant as of an appropriate date; (7) establish a priority for cash disbursement in the event that there will be insufficient cash to pay market participants for the energy they sold; (8) determine how “true-ups” will be resolved. SEL-19 at 4:6–5:6. With respect to the calculation of refund amounts, the Commission must determine a final set of quantity adjustments, determine the universe of spot transactions and charge types eligible for mitigation, and reflect the required change in energy prices from their original values to their new values (*i.e.*, the lesser of the original price (P_O) or the MMCP (P_N)). SEL-19 at 13:18–15:2, 39:6-15. Dr. Cicchetti testifies that one approach to determining refunds would be to use the adjusted quantity (Q_N), rather than the original quantity (Q_O). SEL-19 at 16:22–17:3. Dr. Cicchetti concludes, however, that because market participants have not yet been provided with their respective final Q_N 's, and because there does not appear to be any CAISO interest in producing a pre-mitigated original detail database to all parties, the best approach would be to base a preliminary refund order on original (Q_O) quantities, leaving the results of individual market participant adjustments for later resolution between the CAISO and individual market participants. SEL-19 at 17:3–19:8. Dr. Cicchetti states that the refund formula $ADJ = (P_O - P_N) * Q_O$, a formula consistent with the CAISO's tariffs, should be used to determine what is owed. SEL-19 at 19:9-12.

P187. *Portland General Position*: Dr. Cicchetti testifies on behalf of Portland General that DOE transactions should not have been mitigated and that payments for DOE transactions should be included as part of Issue 3 of this proceeding. SEL-19 at 70:5-24. If, however, calculations for DOE transactions are excluded from Issue 3, Portland General's witness Ms. Stathis explains that payments attributable to such transactions must also be subtracted from Portland General's cash position. In that event, Ms. Stathis presents ISO payment statements and invoices, and explains how the payments received by Portland General should be allocated to DOE transactions. PGE-23 at 3:7-4:14; PGE-24; PGE-25.

P188. *PS New Mexico Position*: PS New Mexico believes that the ISO and PX correctly applied the MMCPs that they used to PS New Mexico's sales to the ISO and PX during the refund period. Therefore, PS New Mexico agrees that the ISO and PX have correctly calculated the amounts PS New Mexico would owe in refunds and the amounts that are owed to PS New Mexico by the ISO and PX. However, the ISO and PX calculations are not final and are based on MMCPs with which PS New Mexico does not agree. Moreover, PS New Mexico has not reviewed the ISO and PX settlement processes in detail. PNM-1 at 7:2-8:17; PNM-1 at 9:2-11:11.

P189. *Powerex Corp. Position:* A series of eleven steps should be used to calculate the refunds and amounts owed and owing. PWX-53 at 3:3-5, 7:1-18:5; PWX-56 at 13:3-18:19; PWX-72; PWX-73; PWX-82; PWX-83. The 11-step process accounts for all funds paid by buyers. PWX-77 at 6:16-9:20.

P190. *SET Position:* The amounts owed to the parties in this proceeding are the sum of the past due principal for transactions in the ISO and PX markets plus interest accrued thereon, minus any amounts paid by the ISO or the PX or netted by a party against other amounts owed to the ISO or the PX. SET-1 at 7:2-10:19.

P191. *PPL Position:* Amounts owed to PPLM, net of refunds, should be calculated by multiplying the quantities sold by the proper MMCPs for transactions subject to mitigation, and adding interest as to amounts not paid when due, as set forth in Mr. Bradshaw's testimony. PPL-18 at 5:1-9:4, PPL-21 at 2:1-5:16; PPL-19R.

P192. *City of Glendale, California ("Glendale") Position:* The amounts owed to the parties in this proceeding should be equal to the sum of the past due amounts for transactions in the ISO and PX markets plus interest accrued thereon, minus any amounts paid by the ISO or the PX or netted by a party against other amounts owed to the ISO or the PX. GLN-4 at 3:1-13; 7:13-13:5; GLN-5A, 5B, 5C, 5D, 5E, 6, 7 and 8.

P193. *Burbank Position:* The amounts owed to the parties in this proceeding should be equal to the sum of the past due amounts for transactions in the ISO and PX markets plus interest accrued thereon, minus any amounts paid by the ISO or the PX or netted by a party against other amounts owed to the ISO or the PX. . BUR-4 at 11:1-18:5; BUR-5, 6A, 6B, 6C.

P194. *Turlock Position:* The amounts owed to the parties in this proceeding should be equal to the sum of the past due amounts for transactions in the ISO and PX markets plus interest accrued thereon, minus any amounts paid by the ISO or the PX or netted by a party against other amounts owed to the ISO or the PX.. TID at 20:6-24:14; TID-4.

P195. *Harbor Position:* Harbor has provided evidence of its fuel, emission and other operating costs which should be used to determine if the sales price was unreasonable, and should be used to calculate a refund, if any. Harbor also provided evidence of the amounts owed to it by the ISO, PX and the IOUs, against which any final refund claims should be offset.

P196. *Midway Sunset Position:* Midway provided evidence of the amounts due and owing to it from the ISO, PX and the IOUs which should be offset against any final refunds claims.

P197. *Modesto Irrigation District (“MID”) Position:* MID states the amounts owing to MID from the ISO, PX and Pacific Gas and Electric Company. MID-20 at 7:11-17; MID-21; MID-22.

P198. *Pinnacle West Companies Position:* Amounts owed and owing should be calculated by applying the final MMCPs to transactions to calculate a final amount for each transaction. PNW-6 at 2:23-3:3; PNW-6 at 4:10-12. This final calculation of amount owed, adjusted for interest, should be netted against amounts paid and collateral held to develop a final amount owed or owing from every participant.

P199. *SMUD Position:* SMUD’s calculation of refund liability must be limited to spot market transactions during the refund period. SMUD’s calculation of refund liability follows the PX’s methodology for calculating refunds, with the exception of DOE sales. SMD-15 at 5:2-7:9.

P200. *SRP Position:* Refunds and amounts owed and owing must be computed consistent with historical practices in order to avoid inequitable cost shifting. Adherence to this principle means, among other things, that refund and offset calculations be performed separately for each discrete market at issue here for each billing month of the refund period. SRP-1 at 15:1-20:15, 21:6-21:10; SRP-5 at 9:9-10:10, 11:3 (beginning with “Again,”)–13:9; SRP-8 at 17:18-18:20. Net refund recipients that have already paid unjust and unreasonable prices must not be required to make still further payments before receiving refunds. Once the refund and offset calculations for the separate markets and billing months have been performed, the final amounts should be ultimately netted so that no net refund recipient must make further payments before receiving refunds. SRP-5 at 14:15-17:13.

P201. *City of Seattle Position:* Refunds and amounts owed and owing should not be calculated for any party without taking into account the overall portfolio of purchases and sales of that party in the California hourly market during the refund period. SCL-1 at 9:6-19; SCL-7 at 6:7-7:11. Amounts owed by the ISO to Seattle should not be calculated based on unverifiable offsets the ISO applied without notice or documentation to Seattle. SCL-7 at 2:5-4:21; SCL-8; SCL-9 at 1-13.

P202. *LADWP Position:* For refund liability to be computed for transactions between LADWP and the ISO, the MMCPs will have to be recalculated in accordance with the Commission’s orders, the transactions that are not subject to mitigation will have to be excluded from the application of the mitigated price in the ISO’s settlements, and the ISO will have to rerun its settlements with the corrected MMCP and transaction data. DWP-21R at 19:21 –21:9. For refund liability amounts to be computed for transactions between LADWP and the PX, the MMCPs will have to be recalculated in accordance with the Commission’s orders and the PX will have to rerun its settlements with the corrected MMCPs. DWP-21R at 21:20-22:14. For amounts owed and owing to LADWP by the ISO, it appears that Exhibit ISO-32 correctly sets forth \$107,629,448.30 as the

principal amount due LADWP, as of invoices received by LADWP as of June 30, 2002. DWP-21R at 23:5-23:19; DWP-34. For amounts owed and owing to LADWP by the PX, it appears that Exhibit CPX-26 correctly sets forth \$62,724,642.26 as the principal amount due LADWP, as of invoices received by LADWP as of June 30, 2002. DWP-21R at 23:5-23:19; DWP-35. LADWP does not have the information required to determine the separate quantities due LADWP from the ISO, investor owned utilities and the State of California. DWP-21R at 24:4-24:7.

P203. *Vernon Position*: Settlements should be re-run with offsets consistent with present ISO and PX tariff requirements and practices – that is, amounts owed by an entity to the ISO/PX should be offset against all amounts owed to that entity by the ISO/PX, including offsets by amounts owed by an entity as a seller as refunds offset against amounts of refunds owed to that entity as a buyer. VER-3 at 4:4-6:19, 7:5-7:23.

P204. *Nevada Power Company and Sierra Pacific Power Company Position*: The amount of refunds owed should be calculated by applying the final MMCPs to transactions listed in SPP-3 and SPP-4 to calculate a final amount for each transaction. SPP-1 at 3:14-21; SPP-3; SPP-4.

B. How should refunds be applied as offsets against amounts owed and owing?

P205. *ISO Position*: The parties reviewing the information provided by the ISO in this proceeding can determine amounts owed and owing by aligning the unpaid and undistributed monthly amounts provided in the cash certification, ISO-42, to the restated monthly invoice amounts based on the recalculation of the settlement system. ISO-30; ISO-24 at 40:14-19.

P206. *CalPX Position*: Cash refunds should not be given to those who still owe money to the CalPX clearinghouse. Such refunds should be netted against amounts owed. CPX-43 at 6-7.

P207. *California Parties Position*: The findings of fact in this proceeding should identify separately the amounts owed from each buyer to each supplier for unpaid invoices and the amount owed from each supplier to each buyer in refunds. Refunds owed to a buyer who has paid its invoices should not be used to offset payments due of buyers that have not paid their invoices. CAL-53 at 5:12-9:20.

P208. *California Generators Position*: Netting of refunds against amounts owed should take place at the market level over the entire refund period, and bilateral refund payment obligations should not be established to/from specific buyers/sellers prior to netting of refunds against payments due. The issue of netting at the market level has nothing to do with the mechanism of how refunds should flow, or how shortfalls should be allocated,

and is integral to the issues set for hearing in this proceeding. GEN-83 at 30:22-32:2; GEN-89 at 4:16-5:17.

P209. *Sellers Position*: Although this proceeding has been characterized as a “refund proceeding,” the fact that issues remain unresolved has served as a justification to withhold payments from sellers for more than a year and a half. More than \$1.2 billion in cash has been paid to the Cal PX and awaits distribution to sellers. SEL-19 at 4:2-6. With respect to amounts owed to each supplier, the cash positions of each market participant at some common point in time must be established, interest must be added to the amounts that are past due on cash “owed” from the CAISO and Cal PX markets to net sellers, or to the cash amounts that net buyers must pay to settle their accounts, and the Commission must fashion an order that will provide sellers that bought and sold in the Cal PX, CAISO, and APX markets sufficient allocations of amounts due from PG&E that will allow the collection process in the Cal PX and PG&E bankruptcies to proceed. SEL-19 at 39:16-24; SEL-19 at 40:11-22; SEL-25; SEL-26; SEL-46; SEL-47.

P210. *PS New Mexico Position*: The amounts owed to PS New Mexico by the ISO and PX should be offset against the amounts that would be owed by PS New Mexico to those entities in refunds. The ISO and PX each owe substantially more to PS New Mexico than PS New Mexico would owe each entity in refunds, based on the calculations presented by the ISO and PX, and PS New Mexico should not be ordered to disburse refunds in light of the greater amounts owed to it. PNM-1 at 11:17-12:13.

P211. *SET Position*: Any amounts owed as a result of mitigation should be netted against the total amount currently owed to each seller. Sellers should not be required to pay any amount before the receipt of amounts currently owed to them. SET-1 at 12:9-20.

P212. *PPL Position*: Under any refund scenario PPL will be owed in excess of \$10 million for energy delivered over 18 months ago, and any and all refunds ordered should be set off against the total outstanding amounts owed to PPL. PPL-18 at 7:8-9:4.

P213. *Arizona Electric Power Cooperative, Inc. (“AEPCO”) Position*: Refund obligations should first be determined net of accounts receivable, and refund obligations and accounts receivable relating to the PX and the ISO should be aggregated together for the entire refund period, at least for smaller and/or non-jurisdictional entities such as AEPCO. AEP-14 at 2:9-3:7, 4:16-6:6; AEP-15 at 1:3-6:2; 6:11-6:16.

P214. *City of Glendale, California (“Glendale”) Position*: Refund should be applied as offsets for amounts owed. GLN-4 at 3:1-13; 7:13-13:5; GLN-5A, 5B, 5C, 5D, 5E, 6, 7 and 8.

P215. *Burbank Position*: Refund should be applied as offsets for amounts owed. BUR-4 at 11:1-18:5; BUR-5, 6A, 6B, 6C.

P216. *Turlock Position*: Refund should be applied as offsets for amounts owed. TID-1 at 20:6-24:14; TID-4.

P217. *Modesto Irrigation District (“MID”) Position*: Offsets should be applied on a first-in, first-out basis. MID-20 at 7:18-9:8; MID-23.

P218. *Pinnacle West Companies Position*: The final refund amount should be a net amount owed or owing for each party.

P219. *Redding Position*: Errors in the ISO’s calculations of the MMCP, etc., should be applied to any refunds respecting Redding. REU-1 at 15:8-15:17. Such refund amounts found to be owing by Redding should be offset by refunds due to Redding associated with purchases made by Redding from the ISO and by the amounts for which Redding has not been paid for sales made by Redding to the ISO. REU-1 at 15:19-16:21, 18:1-18:2.

P220. *SVP Position*: Amounts found to be due to SVP should be netted against any amounts due from SVP. SVP-1 at 7:11-7:15.

P221. *Public Service Company of Colorado Position*: The final refund amount should be offset against any outstanding amounts owed to each party.

P222. *SMUD Position*: SMUD is owed at least \$2.65 million in refunds for sales made to the PX with the Automated Power Exchange acting as SMUD’s Scheduling Coordinator. This refund is expected to increase and should be netted against any refund liability assessed against SMUD. SMD-15 at 12:14-16; 15:16-16:19; SMD-18; SMD-19 at 10:3-20.

P223. *SRP Position*: Refunds and amounts owed and owing must be applied consistent with historical practices in order to avoid inequitable cost shifting. Adherence to this principle means, among other things, that refund and offset calculations be performed separately for each discrete market at issue here for each billing month of the refund period. SRP-1 at 15:1-20:15, 21:6-21:10; SRP-5 at 9:9-10:10, 11:3 (beginning with “Again,”)-13:9.

P224. *City of Seattle Position*: Refunds should be first applied as offsets against amounts owed. Seattle, for example, has already been offsetting the smaller amounts it owes the ISO from the much larger amounts owed to Seattle by the ISO for power deliveries in November 2000. SCL-1 at 8:18-9:15; SCL-5 at 1-10.

P225. *Constellation Position*: All of Constellation’s unpaid receivables related to sales into ISO and PX markets during the refund period, inclusive of interest, should be offset against any refunds that Constellation may otherwise be ordered to make in this proceeding. CPS-1 at 5:1-6:3, 14:14-14:17; CPS-2; CPS-3; CPS-4 (as revised to reflect ruling on Motion to Strike).

P226. *Coral Position*: All of Coral's unpaid receivables related to sales into ISO and PX markets during the refund period, inclusive of interest, should be offset against any refunds that Coral is otherwise ordered to make in this proceeding. COR-23 at 3:12-5:11; 9:4-10:3; COR-24; COR-25; COR-28.

P227. *NCPA Position*: PG&E owes large amounts for pre-petition transactions subject to mitigation in this proceeding to NCPA, for whom PG&E acts as Scheduling Coordinator. Those amounts should be used as offsets for any refund liability accruing to NCPA, and no payment be required beyond the amounts offset (amounts owed to NCPA by the ISO, PX and PG&E) until the PG&E-NCPA settlements process is completed. NCP-14 at 9:20-10:29.

P228. *LADWP Position*: After the corrected MMCPs are calculated and applied to LADWP sales determined to be subject to mitigation under the Commission's orders, interest should be applied to the recomputed refund liability amount in accordance with Section 35.19a of the Commission's regulations. See DWP-21R at 24:8-24:12. Interest should be applied separately, in accordance with Section 35.19a of the Commission's regulations, to current amounts owed and owing to LADWP by the ISO and PX. DWP-21R at 24:8-26:16. After NOx emissions costs and environmental compliance fees are deducted from the recalculated refund liability (including interest), DWP-21R at 32:1-32:11, the remaining balance, if any, should be applied as an offset against the amounts due and owing LADWP (including interest), DWP-21R at 26:21-26:24.

P229. *Powerex Corp. Position*: Powerex's unpaid receivables related to sales into ISO and PX markets during the refund period, inclusive of interest, should be offset against any refunds that Powerex is otherwise ordered to make in this proceeding, consistent with the 11-step process set out in Dr. Tabors' testimony. The 11-step process accounts for all funds paid by buyers. PWX-53 at 3:1- 3:23 (ending with "period."); 7:1-21:9; PWX-55; PWX-72; PWX-73; PWX-77 at 6:16-9:20, 15:3-16:14; PWX-82; PWX-83.

C. How should the cash positions of parties in the ISO and PX markets (including cash held by the PX) be accounted for, if at all?

P230. *ISO Position*: A list showing the cash amounts owed and owing by each Scheduling Coordinator through the end of March, 2002, is contained in Exhibit ISO-42. These calculations are based on the ISO's production settlement and invoicing process, operated in accordance with the ISO Tariff, and the amount of money paid to the ISO by market participants. ISO-37 at 102:1-113:5.

P231. *CalPX Position*: When the refund calculations are completed, the adjusted amounts should be used to pro-rate the cash and Accounts Receivables of CalPX among the Participants and the ISO. The Commission must order a shortfall allocation method for the CalPX to complete its responsibilities in the Clearinghouse. CPX-43 at 5-7.

P232. *California Parties Position:* The Commission reserved to itself the issue of how money should flow to pay refunds and did not set that issue for hearing. CAL-53 at 3:4-3:17.

P233. *California Generators Position:* The cash position of the participants relative to the ISO and PX markets should be accounted for as described in Exhibits GEN-83 and GEN-89. PX cash on hand must be taken into account in establishing the current cash position of the PX relative to other parties. GEN-36 at 16:18-17:2.

P234. *Sellers Position:* Cash positions should be determined by using the cash positions produced by the CAISO and the Cal PX, which show cash amounts owed or owing for all market participants as of March 2002, even though such data necessarily introduces consideration of post-refund period transactions. SEL-19 at 41:22-43:4. However, cash positions will then need to be updated and interest calculations applied. SEL-19 at 43:11-13.

P235. *PPL Position:* Cash positions must be determined by identifying all amounts that buyers have paid for energy sold during the refund period and all amounts that remain unpaid for such energy, so that interest can be calculated on amounts that were paid late and that are still unpaid, and so that any refund obligations can be offset against amounts due and owing. PPL-18 at 7:8-8:7. PPL accepts the CAISO's calculation in ISO-42 that the total amount due and owing to PPL for its sales during the refund period is \$17,145,978.76. This amount is net of the \$799,848.54 that has been paid to PPLM for sales during the refund period as set forth in PPL-20. PPL-22 at 2:7-12.

P236. *Pinnacle West Companies Position:* The cash positions of the parties must reflect payments made to the ISO and PX. PNW-6 at 3:12-13. Cash positions should include the amounts retained by the PX in the form of collateral. PNW-6 at 2:15-19.

P237. *SRP Position:* Cash positions of the parties must not be accounted for in a manner that would allow purchase amounts for transactions made after the refund period to be used to offset refund liability incurred during the refund period. SRP-5 at 10:11-11:19.

P238. *Constellation Position:* All of Constellation's unpaid receivables related to sales into ISO and PX markets during the refund period, inclusive of interest, should be offset against any refunds that Constellation may otherwise be ordered to make in this proceeding. CPS-1 at 5:1-6:3, 14:14-14:17; CPS-2; CPS-3; CPS-4 (as revised to reflect ruling on Motion to Strike).

P239. *Coral Position:* All of Coral's unpaid receivables related to sales into ISO and PX markets during the refund period, inclusive of interest, should be offset against any refunds that Coral is otherwise ordered to make in this proceeding. COR-23 at 3:12-5:11; 9:4-10:3; COR-24; COR-25; COR-28.

P240. *Powerex Corp. Position:* Determining the cash position for each SC for amounts owed to them or by them prior to mitigation is the first step in ultimately determining Issue 3, the amounts owed and owing post-mitigation. In order to arrive at the final Amounts Owed to or owed by each SC, it is necessary to arrive at an agreed amount as to what has been billed and for what products, as well as what has been paid and for what products. These values are the necessary point of departure for calculation of Issue 3 values. The cash position is determined by taking a snapshot at an agreed upon point in time. PWX-53 at 14:2-19; PWX-72; PWX-73; PWX-77 at 15:3-16:14; PWX-82; PWX-83.

D. How should interest be calculated and applied?

P241. *ISO Position:* The ISO has no preference as to which proposed methodology for determining interest is used, so long as the application of the methodology does not result in a violation of the ISO's position as a cash-neutral entity. ISO-37 at 129:4-134:12; ISO-45 at 33:22-34:3. The proposal to combine the ISO and PX markets for purposes of calculating interest may not be workable because of the legal claims that the ISO and market participants have with respect to the PX bankruptcy. ISO-45 at 32:6-12. The methodologies for calculating interest proposed by the California Generators and PX do not sufficiently address the issues that may arise due to bankruptcies. ISO-45 at 32:17-33:19.

P242. *CalPX Position:* See CPX-43 at 2-5, CPX-44 and CPX-45 for CalPX Position on interest. The PX Default Interest Rate should apply for those charges and outstanding balances that were incurred prior to the July 25th, 2001 Commission order adopting the FERC Rate. Interest on all refunds should be calculated using the FERC Rate. CalPX provides a Template for this calculation.

P243. *California Parties Position:* Interest on both refunds and unpaid charges should be calculated at the interest rate set forth in 18 C.F.R. § 35.19a. CAL-35 at 7:3-7:4, 10:19-11:9.

P244. *California Generators Position:* Interest should be imposed symmetrically on both unpaid pre-mitigation obligations and on refunds, using the interest rate methodology set forth in the Commission's regulations. This should include interest on bankrupt entities. The unpaid pre-mitigation obligation should be based on the corrected pre-mitigation records aggregated by trade date. The ISO and PX markets should be combined over the entire refund period, including all ISO charge types and PX product codes and allocated emissions costs. GEN-36 at 7:17-21, 32:13-35:2; GEN-83 at 33:16-35:16; GEN-89 at 21:10-26:21.

P245. *Sellers Position:* Dr. Cicchetti believes that interest on amounts past due to sellers, and on amounts owing by buyers, should be applied at the monthly average interest rate of "prime plus two percent" specified in Section 11.12 and Master

Definitions Appendix A of the CAISO Tariff for amounts owed to sellers. SEL-19 at 73:4-15. For parties in bankruptcy, interest should be applied in accordance with the methods specified in the relevant tariffs. SEL-19 at 74:5-10. However, Dr. Cicchetti recognizes that the Commission has decided that interest should be calculated under 18 C.F.R. § 35.19a, but argues that netting of past sales and purchases should not be undone to calculate interest payments. SEL-42 at 20:17–23:9.

P246. *PS New Mexico Position*: Interest should be calculated on refunds and past due receivables pursuant to the methodology for calculating interest under section 35.19a of the Commission's regulations, as required by the Commission's July 25, 2001 order. PNM-1 at 13:3-9.

P247. *Powerex Corp. Position*: Interest should be applied at the FERC interest rate, on a monthly basis, to all post-mitigation amounts owed to suppliers based on the ISO and PX monthly billing cycles. PWX-53 at 8:11-14, 16:2-17:1; PWX-55 at 1-4; PWX-72 at 5:19-6:2. Interest should be calculated on the post price mitigation amounts owed to or owed by each Scheduling Coordinator. PWX-53 at 15:1-13.

P248. *SET Position*: Interest should be calculated according to section 35.19a of the Commission's regulations. Interest should be applied to principal amounts outstanding relating to transactions in the ISO markets as of the date that they became past due according to the ISO Payment Calendars. SET-1 at 8:10-10:9; SET-5. Interest should be paid not only on principal currently outstanding, but also on principal that was paid in full after the due date. SET-1 at 8:1-4; SET-5.

P249. *PPL Position*: Interest should be applied on amounts, net of refunds, that were not paid when due, as set forth in Mr. Bradshaw's testimony. PPL would accept payment at either the FERC interest rate or at the ISO tariff rate. Its position is that the primary factor in deciding which interest rate to use should be simplicity and the prompt payment of amounts owing to PPL. PPL-18 at 8:8-9:4, PPL-21 at 3:13-4:23. The findings in this proceeding should certify the total amount of interest due and owing to PPL, without reductions based on shortfall or bankruptcy issues. PPL-22 at 5:17-6:15.

P250. *Arizona Electric Power Cooperative, Inc. ("AEPCO") Position*: Interest on refunds and accounts receivable should be calculated in the same way, although sellers that posted security should receive an interest offset reflecting their costs of posting security, particularly if those receiving the benefits of refunds are not also required to post security. AEP-14 at 4:1-3, 9:6-10:17.

P251. *Pinnacle West Companies Position*: The final refund amounts, both owed and owing, should include interest. PNW-8 at 2:3-5.

P252. *SRP Position*: Interest on both refunds and receivables past due should be calculated pursuant to Section 35.19a of the Code of Federal Regulations. SRP-1 at 20:9-20:15.

P253. *City of Seattle Position*: Interest should be calculated reciprocally and applied in the same way to payments owed by the ISO as to payments owed to the ISO. SCL-5 at 1-10; SCL-7 at 5:2-6:2; SCL-10 at 1-17.

P254. *Constellation Position*: Interest should be calculated in accordance with the Commission's interest rate, 18 C.F.R. § 35.19a (2002), and accrue until all accounts are fully settled and all unpaid balances are fully paid. CPS-1 at 5:1-6:3, 13:3-13:10, 14:14-14:17; CPS-2; CPS-4 (as revised to reflect ruling on Motion to Strike).

P255. *Coral Position*: Interest should be calculated in accordance with the Commission's interest methodology, 18 C.F.R. § 35.19a (2002), and should accrue until all accounts are fully settled and all unpaid balances are fully paid. COR-23 at 3:4-4:21, 5:21-6:3, 8:3-11:10; COR-25; COR-28.

P256. *LADWP Position*: After the corrected MMCPs are calculated and applied to LADWP sales determined to be subject to mitigation under the Commission's orders, interest should be applied to the recomputed refund liability in accordance with Section 35.19a of the Commission's regulations. *See* DWP-21R at 24:8-24:17. LADWP does not have the capability of correctly recalculating refund liability or applying interest on LADWP refund liability determined under the Commission's orders. DWP-21R at 19:21-21:9; 22:4-22:14; 24:8-24:17. Interest should be separately applied in accordance with Section 35.19a of the Commission's regulations to amounts owed and owing to LADWP by the ISO and PX. DWP-21R at 24:18-26:24. The amount of interest due on the principal amount owed to LADWP for transactions with the ISO during the refund period is \$10,896,728.51. DWP-21R at 24:18 -25:2. The amount of interest due on the principal amount owed to LADWP for transactions with the PX during the refund period is \$5,792,320.75. DWP-21R at 24:18-25:2.

P257. *Vernon Position*: Interest should be applied across to the board to all amounts owed and owing by the ISO/PX as shown in the re-run settlements to any entity. VER-3 at 8:2-8:23.

P258. *Western Position*: Sellers are entitled to interest under the terms of the Commission's July 25, 2001, order. Because of the uncertainty surrounding the calculation of the MMCP and which transactions will be mitigated, it is impracticable to presently calculate interest on refund amounts. The same methodology that is be used to calculate interest on past due amounts should also be applied to calculate interest on refund amounts. Interest calculations should be addressed in compliance filings. WPA-1 at 15:1-23.

P259. *Staff Position:* Ms. Patterson discussed the procedure to be used for calculating interest on amounts to be refunded and amounts owed under section 35.19a of the Commission's regulations. S-95 at 27:16-30:7.

E. Should bilateral obligations that look through the ISO and PX markets be determined and, if so, how should they be determined?

P260. *ISO Position:* The ISO takes no position on this issue at this time. However, the ISO notes that its relationship in the wholesale electric market is with Scheduling Coordinators who represent various entities, including the Investor Owned Utilities. For this reason, the ISO cannot determine the obligations between the Scheduling Coordinators and the parties they represent. ISO-24 at 40:4-14.

P261. *CalPX Position:* CalPX does not advocate the bilateralization of obligations. If the Commission does order such bilateralization, it will need a clear methodology for allocating responsibilities. Moreover, the CalPX must receive an absolute, complete and final release of its own obligations as an exchange. CPX-43 at 7-8.

P262. *California Parties Position:* The Commission's Orders require that the amounts owed and owing be determined on a bilateral basis between individual buyers and suppliers. It should be calculated as set forth in Issue III.A. CAL-35 at 5:7-7:6; CAL-82 at 2:14-5:17.

P263. *California Generators Position:* There are no bilateral obligations based on the ISO and PX tariffs, nor is there a clear need to create such bilateral obligations in this proceeding. Nevertheless, as a final step in the calculation refunds, a matrix of bilateral obligations should be created to facilitate claims in the PX and PG&E bankruptcy proceedings. GEN-83 at 36:8-37:13.

P264. *Sellers Position:* The Commission should determine a post-mitigation matrix of financial responsibility for affected buyers and sellers through each of the markets in which the parties conducted business. SEL-19 at 44:19-22. Dr. Cicchetti argues that when a bilateral obligation replaces undivided obligations through the market, no other market participant's interests should be adversely affected. Also, different consideration needs to be given to funds from the PG&E estate than from funds on hand in the Cal PX estate. Establishing bilateral obligations to extinguish obligations through the market must consider other instances in which payments have become unavailable. SEL-42 at 23:10-25:6; SEL-46; SEL-47.

P265. *PS New Mexico Position:* PS New Mexico takes no position with respect to determination of bilateral obligations at this time. PS New Mexico had no direct contractual relationship with the California investor owned utilities; rather, PS New Mexico dealt with the ISO and PX and received payments from the ISO and PX. Neither the ISO nor the PX has provided calculations to address bilateral obligations between the

California IOUs and parties that sold electricity into the ISO and PX markets. PNM-1 at 6:17-21; PNM-1 at 12:14-13:2.

P266. *Powerex Corp. Position*: Bilateral obligations should be determined on a *pro rata* basis. PWX-53 at 8:15-19, 17:2-18:5.

P267. *PPL Position*: Yes. Buyers with unpaid invoices should have their liabilities allocated on a *pro rata* basis to each seller, thus allowing sellers to claim against these buyers directly to the extent ISO and PX funds prove inadequate. This allocation should be made after calculation of the total amount due and owing to PPLM and should not be applied to reduce that total amount. PPL-21 at 2:20-3:12.

P268. *Arizona Electric Power Cooperative, Inc. ("AEPCO") Position*: Bilateral obligations, that is, obligations between individual buyers and sellers should not be determined, at least not for relatively small sellers like AEPCO that likely owe net refunds in the aggregate. To the extent bilateral obligations are nonetheless determined, other parties should provide a mechanism for reducing such obligations to simple net payments, at least for relatively small sellers like AEPCO. AEP-14 at 5:2-6, 6:3-6; AEP-15 at 1:4-5:12; 6:11-16.

P269. *Midway Sunset Position*: Midway had sales to SCE and PG&E pursuant to long-term agreements that were scheduled through the PX markets and should not have been mitigated.

P270. *Harbor Position*: Harbor identified bilateral transactions on December 6, 2000 included in the ISO refunds calculation that should not have been mitigated.

P271. *Vernon Position*: No sufficient basis has been shown for determining bilateral obligations that look through the ISO and PX markets. VER-10 at 9:1-10:13.

F. What are the results of properly applying the above methodologies?

P272. *ISO Position*: The ISO takes no position on this issue at this time, as these results will be contingent on the Commission's determination on MMCPs. ISO-37 at 125:4-7.

P273. *CalPX Position*: See CPX-20 through CPX-47.

P274. *California Parties Position*: The final determination of who owes what to whom should be made following the Commission order adopting a final set of MMCPs, approving emissions costs, and resolving various disputed issues that are being litigated in this proceeding. CAL-35 at 12:1-12:9.

P275. *California Generators Position*: All of the obligations, cash transfers, and interest should be summed for each participant to arrive at a net amount owing and owed in the combined ISO and PX markets, with no netting across months. GEN-36 at 8:10-14,

16:7-17; GEN-83 at 35:17-36:7. Illustrative calculations of the amounts owing and owed of individual participants relative to the ISO and PX markets, and potentially relative to each other, are displayed in Exhibits GEN-93 through GEN-104.

P276. *Sellers Position*: To demonstrate the methodology that he proposes, Dr. Cicchetti produced four exhibits, SEL-25 through SEL-28. SEL-19 at 43:5-11, 43:13-44:2, 44:15-51:5. Dr. Cicchetti has replaced SEL-27 and SEL-28 with SEL-46 and SEL-47, respectively. SEL-45 at 2:2-3:7; SEL-25; SEL-26; SEL-46; SEL-47.

P277. *Powerex Corp. Position*: The specific amount owed to Powerex and other suppliers after mitigation cannot be determined precisely until accurate data is provided by the ISO and the ISO reruns its settlements. Nonetheless, Powerex provides amounts that are illustrative and provide a clear indication of the magnitude of refund and offsets for one Scheduling Coordinator, Powerex. PWX-53 at 17:2-21:2; PWX-56 at 26:8-30:18, 33:5-36:24; PWX-72; PWX-73; PWX-77 at 15:3-16:14; PWX-82; PWX-83.

P278. *SET Position*: As a result of properly applying the above methodologies, all the amounts owed by a party are netted against all the amounts owing to that party. SET-1 at 12:9-20. Calculation of the results of properly applying the above methodologies to SET's transactions is provided in Exhibit SET-1 at 10:10-14.

P279. *PPL Position*: An illustrative result of applying the above methodologies is provided as exhibit PPL-19R.

P280. *Modesto Irrigation District ("MID") Position*: MID states the amounts owing to MID from the ISO, PX and Pacific Gas and Electric Company. MID-20 at 7:11-17; MID-21; MID-22.

P281. *MSCG Position*: Based on information currently available to it, MSCG is owed \$6,305,764 for defaults in the CAISO and CalPX markets. If the presiding administrative law judge recommends and the Commission adopts without any alteration either the CAISO MMCPs, the Generator MMCPs or the marketer MMCPs, MSCG would be entitled to net refunds of \$15,533,288, \$13,276,233 or \$11,080,644 respectively. MSC-1 at 6:17-7:7.

P282. *Pasadena Position*: Pasadena does not contest the figure provided by the ISO in Exhibit ISO-30 that Pasadena owes refunds to the ISO in the amount of \$5,013,539.35. PAS-6 at 5:1-8. Pasadena also does not contest the figure provided by the ISO in Exhibit ISO-32 that the ISO owes Pasadena \$20,100,444.88. PAS-6 at 5:10-23.

P283. *Redding Position*: Redding has not been fully paid for all emergency sales to the ISO. Redding has been informed that approximately \$2 million remains outstanding as of today. REU-1 at 15:19-16:21, 18:1-18:2.

P284. *SVP Position:* SVP is owed \$495,313.27 for sales to the PX during December of 2000 for which it has not been paid. Based upon the ISO's flawed MMCP calculations, the PX has determined that SVP owes \$2,207,597.09 in refunds for its sales to the PX and that SVP is owed \$60,015.53 in refunds based on SVP's purchase from the PX. Thus, if SVP is found to owe a refund of \$2,207,597.09 to the PX as claimed by the PX, the amounts of \$60,015.53 (refund due to SVP) and \$495,313.27 (amount owed to SVP for unpaid sales) should be netted, with the result that SVP owes a refund (subject to other revisions) of \$1,652,268.29. SVP-1 at 3:18-3:21, 7:1-7:15; SVP-2.

P285. *SRP Position:* Under SRP's proposed methodology, refund recipients are paid their refunds in accordance with the law and in a manner consistent with the Commission's orders and the past billing practices of the PX and ISO, while minimizing unintended cost shifting. SRP-1 at 21:6-21:10.

P286. *Constellation Position:* All of Constellation's unpaid receivables related to sales into ISO and PX markets during the refund period, inclusive of interest, should be offset against any refunds that Constellation may otherwise be ordered to make in this proceeding. CPS-1 at 5:1-6:3, 14:14:14-17; CPS-2; CPS-3; CPS-4 (as revised to reflect ruling on Motion to Strike).

P287. *Coral Position:* All of Coral's unpaid receivables related to sales into ISO and PX markets during the refund period, inclusive of interest, should be offset against any refunds that Coral is otherwise ordered to make in this proceeding. COR-23 at 3:12-5:11; 9:4-10:3; COR-24; COR-25; COR-28.

P288. *LADWP Position:* After refund liability has been correctly recalculated for LADWP sales in accordance with the Commission's orders (including interest), the NOx emissions costs and environmental compliance fees allocable to such sales should be deducted from the recalculated refund liability, DWP-21R at 32:1-32:11, and the remaining balance, if any, should be applied as an offset against the amounts due and owing LADWP for receivables past due (including interest), DWP-21R at 26:21-26:24. LADWP does not have the information or capability of recalculating and applying the MMCPs to the ISO and PX's settlement data to determine accurately LADWP refund liability under the Commission's orders. DWP-21R at 22:4-22:14; DWP-21R at 24:13-15. As a result, LADWP cannot allocate its NOx emissions costs or environmental compliance fees to those sales determined to be subject to refund liability. DWP-21R at 32:1-32:11. The total amount of principal and interest for receivables past due LADWP for transactions with the ISO during the refund period under invoices received as of June 30, 2002 is \$118,526,176.81. DWP-21R at 23: 5-23:19; DWP-21R at 24:18-25:2; DWP-21R at 26:9-26:16; DWP-34. The total amount of principal and interest for receivables past due LADWP for transactions with the PX during the refund period under invoices received as of June 30, 2002 is \$68,516,963.01. DWP-21R at 23: 5-19; DWP-21R at 24:18-25:2; DWP-21R at 26:9-26:16; DWP-35.

P289. *SMUD Position:* SMUD's unpaid balances for sales it made to the ISO and PX, plus refunds due to SMUD for purchases SMUD made through the APX during the refund period, should be offset against any refund liability assessed against SMUD in this proceeding. SMD-15 at 12:3-17:4; SMD-17; SMD-18.

G. [Removed]

H. [Removed]

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

A. AES NewEnergy, Inc.

- 1. Did the ISO properly "zero out" \$496,140.07 of charge type 401 on December 8, 2000?**

P290. *AES NewEnergy Position:* The ISO improperly mitigated charge type 401 on December 8, 2000 by zeroing it out, assuming that the December 8, 2000 sales are subject to mitigation. AES-2 at 7:15-8:10; AES-10 at 3:1-8.

P291. *ISO Position:* In the process of attending to manual adjustments during the settlement re-run, the ISO did not properly account for these transactions. This oversight led to the results described by AES. ISO-37 at 29:18-30:2.

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?**

P292. *APX Position:* Because APX did not buy or sell power but only acted as an intermediary for buyers and sellers, APX-1 at 2:13-4:12, and did not benefit from the prices charged in the California markets during the refund period, APX-1 at 4:14-5:6, APX should not be liable for refunds in this case. Any refund obligation nominally imposed on APX should be passed through to APX's customers.

P293. *ISO Position:* APX is the Scheduling Coordinator and the transacting party in the ISO market, and thus is responsible for amounts allocated to it. ISO-37 at 122:20-123:3.

P294. *CalPX Position:* CalPX and APX are very similar as they both operated as Exchanges for the benefits of their Participants. If the Commission had not removed the chargeback provisions of its tariff, CalPX would have allocated such shortfalls among its participants.

P295. *California Parties Position:* The California Parties are indifferent to whether refunds are paid by APX or by those entities on whose behalf APX scheduled physical energy to the ISO. In the event that APX's customers do not pay their share of refunds, APX should be liable for the difference. Disputes about relative liabilities of customers in the APX should not be allowed to delay this proceeding. CAL-54 at 33:1-35:4.

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?

P296. *APX Position:* APX should allocate the responsibility for any refunds and amounts owed and owing to its customers based on the actual quantities and prices for which those entities scheduled or bid energy and capacity to APX for the relevant markets. APX will compare the original volumes and settlement prices with the MMCP adopted in this case to determine refunds and amounts owed. APX-1 at 6:4-7:19; APX-3 at 8:9-17; APX-4 at 4:21-5:3. APX has no stake in the \$150.00/MWH cap and will work with its customers on this issue. APX will follow FERC orders on the chargeback issue. APX-3 at 5:8-6:7. APX has sent MSCG monthly statements indicating the amount of power MSCG traded via APX in the CalPX and CAISO, the amount paid, and any corrections known at that time. APX-3 at 7:5-14. APX will continue to provide data to its customers to allow them to determine their liability through APX. APX-3 at 1:4-3:12, 6:8-7:4.

P297. *ISO Position:* The issue of which customers of APX should ultimately be responsible for payment is an issue strictly between APX and its customers. ISO-37 at 123:3-123:5.

P298. *CalPX Position:* CalPX views APX as a Participant in the CalPX market and expects it to provide or receive refunds in the same manner as the other CalPX Participants. CPX-43 at 11.

P299. *Sellers Position:* APX improperly applied a \$150 per MWH price cap for all transactions in January 2001, in contravention of the Commission's December 19, 2001 order, and APX passed through the Cal PX default chargeback to its market participants when SCE and PG&E defaulted. SEL-19 at 35:11-16, 36:13-14. The Commission should place a clear burden on APX to provide an accurate data set that is consistent with the Cal PX and CAISO data filings and that properly accounts for the Commission's orders on the \$150 per MWH price cap; the Commission should not permit sellers in the APX market to be penalized by any errors or omissions made by the APX in their market dealings and accounting with the Cal PX and CAISO. SEL-19 at 38:7-24. In order to comply with the Commission's intent to reset market prices back to their original settlement level before applying mitigation methodology adopted in the Commission's July 25, 2001 order, Cal PX must reset and APX must pass through to its market

participants January 2001 transaction prices that reflect the original settlement prices without application of the superseded \$150.00 breakpoint. SEL-42 at 29:4-34:21.

P300. *MSCG Position*: MSCG depends on APX to: 1) properly classify MSCG's transactions as having occurred in the CalPX and CAISO markets; 2) tell MSCG how much it has paid or has been paid for such transactions; 3) accurately apply Commission orders to MSCG's transactions; 4) properly allocate charges among its market participants, including MSCG; 5) correct errors in the APX, CAISO and CalPX settlements and pass through those corrections to MSCG; 6) provide information on the allocation of amounts owed and owing to APX market participants and MSCG's relative percentage of both; and 7) to verify the accuracy of, and provide market participants with, information concerning CAISO and CalPX settlement and MMCP testimony implicating APX transactions. MSCG's refund and offset testimony may be affected by its access to complete and accurate settlement data from the CalPX, CAISO or APX related to APX's participation in the markets at issue in this proceeding. MSC-1 at 5:11-22; MSC-2 at 3:13-4:2. APX also must pass through to its market participants January 2001 transaction prices that reflect CalPX's original settlement prices (e.g., zonal or unconstrained market clearing prices). MSC-2 at 8:18-20.

P301. *Turlock Position*: Turlock's sales into the APX market constituted bilateral third party sales outside of the scope and therefore not subject to mitigation in the California Refund Proceeding. TID-1 at 17:8-19:18; TID-8 at 3:1-6:3.

C. CERS

1. Should refunds associated with ISO charges satisfied by CERS be owed to CERS?

P302. *ISO Position*: The ISO agrees with the underlying methodology for determining refunds owed CERS presented by the California Parties in Exhibit CAL-37. However, the ISO has not performed any analysis of the California Parties' calculations to determine if they included all of the charge types included in the ISO's settlement recalculation. ISO-37 at 38:3-18.

P303. *California Parties Position*: The ISO has billed CERS (the California Energy Resources Scheduling division of the California Department of Water Resources) for transactions on or after January 17, 2001 (for PG&E and Edison) and for transactions on or after April 6, 2001 (for SDG&E), and CERS has satisfied those bills. CERS is entitled to the refunds associated with those transactions, but the ISO on Exhibit ISO-30 has attributed the refunds to the three IOUs instead of CERS. The refunds should go directly to CERS. CAL-37 at 3:4-12:6.

D. Dynegy**1. Are transactions under the 11-day bilateral contract between the ISO and Dynegy subject to mitigation?**

P304. *Dynegy Position:* Transactions entered into pursuant to the 11-day bilateral contract between the ISO and Dynegy, as identified through the current good faith negotiations between the ISO and Dynegy, are not subject to mitigation. DYN-16 at 22:1-26:19; DYN-32 at 9:19-19:3.

P305. *ISO Position:* Any transactions that were entered into pursuant to the 11-day Dynegy contract are non-spot transactions. However, the universe of transactions that were entered into pursuant to this contract is currently the subject of good-faith negotiations between the ISO and Dynegy, and therefore, and the ISO therefore takes no position on that issue in this proceeding. ISO-37 at 70:15-72:20.

P306. *California Parties Position:* All sales made during the effective dates of the 11-day bilateral enabling agreement between the ISO and Dynegy should be subject to mitigation. CAL-54 at 12:1-14:9; CAL-83 at 6:3-23.

2. Should the ISO have reversed the manual adjustments totaling \$1.4 million in true up charges associated with certain Dynegy January 2001 transactions that were based on acknowledged, rather than actual, megawatthours?

P307. *Dynegy Position:* The ISO should have reversed the true up charges associated with Dynegy's January 2001 transactions that were based on acknowledged, rather than actual, megawatthours. DYN-16 at 26:20-28:12.

P308. *ISO Position:* In the process of attending to manual adjustments during the settlement re-run, the ISO did not properly account for these transactions. This oversight led to the results described by Dynegy. ISO-37 at 29:18-30:2.

E. Midway Sunset Cogeneration**1. Should the PX have mitigated the transactions of Midway Sunset with Edison and PG&E pursuant to long-term contracts?**

P309. *CalPX Position:* CalPX has no legal obligations to mitigate between Edison-PG&E and Midway. Midway was a full CalPX Participant and should be treated as any other CalPX Participant.

P310. *California Parties Position:* All sales to the PX core markets should be mitigated, including those by Midway Sunset. CAL-40 at 3:14-7:23; CAL-54 at 27:1-16.

F. [Removed]

G. [Removed]

H. Salt River Project

- 1. Are the ISO and PX calculations of the amounts owed to SRP too low because the ISO and PX failed to reflect the full refund amounts due to SRP and the data provided by the ISO and PX are incomplete or in error?**

P311. *SRP Position:* Yes. The ISO and PX have understated the amounts owed to SRP. SRP-1 at 6:1-8:2, 8:9 (beginning with “In addition”)-8:18 (ending with “at 23.”), 9:3-11:14. The ISO understates amounts owed to SRP primarily by failing to mitigate all spot market transactions, including energy exchanges and ancillary services. SRP-1 at 7:12-8:2, 8:9 (beginning with “In addition”)-8:18 (ending with “at 23.”).. The PX understates amounts owed to SRP primarily by failing to fully refund amounts paid by SRP in excess of the just and reasonable MMCP and by allocating shortfalls in refund payments exclusively to buyers. SRP-1 at 9:3-14:26.

P312. *ISO Position:* See position set forth under I.A.2.k.

- 2. What are the correct amounts owed to SRP?**

P313. *SRP Position:* Although the numbers are not yet finalized and are subject to further reruns, at a minimum, SRP is owed \$28,351,398.97 based on available data of the ISO and PX. SRP-1 at 6:1-6:13.

P314. *ISO Position:* The ISO takes no position on this issue at this time. As with all other SCs, the correct amounts owed to SRP will not be known until a final settlements re-run takes place using Commission-approved MMCPs. ISO-37 at 125:5-7.

I. [Removed]

J. Southern California Edison Company

- 1. Has SCE fully satisfied its refund period invoices from the ISO and PX?**

P315. *California Parties Position:* SCE has fully satisfied its refund period invoices from the ISO. As to the charges the PX asserts SCE owes on unpaid invoices, these charges are disputed by SCE. CAL-35 at 20:21-22:20.

P316. *ISO Position:* With respect to the ISO, yes. ISO-37 at 119:1-4; ISO-42.

P317. *CalPX Position:* CalPX is in continuing discussions as to these final SCE amounts, but there has been no final resolution.

K. City of Vernon

- 1. In its settlement re-runs did the ISO err in mitigating Record Type D entries for Charge Type 0004 Replacement Reserve Capacity for Vernon for June 16, 17, and 18, 2001 while not mitigating Type A charges? If so, how should this be corrected?**

P318. *Vernon Position:* As the ISO has admitted in its responses to requests for admission, in its settlement re-runs the ISO erred in mitigating Record Type D entries for Charge Type 0004 Replacement Reserve Capacity for Vernon for June 16, 17, and 18, 2001 while not mitigating Type A charges. As the ISO also admitted, these entries should be consistently treated as to mitigation in future re-runs. VER-3 at 9:6-11:10. This issue seems amenable to stipulation.

P319. *ISO Position:* The ISO admits that it erred in applying the MMCP to some Vernon items involving replacement reserves. ISO-37 at 9:12-16.

L. Western Area Power Administration

- 1. Did the ISO fail to properly account for a settlement between the ISO and the Western Area Power Administration (for SCID WAMP) of an error in CT 401 on Western's (WAMP) December 2000 invoice?**

P320. *Western Position:* Yes. The ISO failed to properly account for a settlement between the ISO and Western (for SCID WAMP) of an error in CT 401 on Western's (WAMP) December 2000 invoice. WPA-1 at 8:13-11:18.

P321. *ISO Position:* In the process of attending to manual adjustments during the settlement re-run, the ISO did not properly account for these transactions. This oversight led to the results described by Western. ISO-37 at 29:18-30:2.