

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

Public Utilities Commission of the)	
State of California)	
<i>Complainant,</i>)	
v.)	
Sellers of Long-Term Contracts to)	
the California Department of Water)	
Resources)	
<i>Respondents.</i>)	Docket Nos. EL02-60-007 and
)	EL02-62-006 (Consolidated)
California Electricity Oversight Board)	
<i>Complainant,</i>)	
v.)	
Sellers of Energy and Capacity under)	
Long-Term Contracts with the)	
California Department of Water)	
Resources)	
<i>Respondents.</i>)	

**SUMMARY OF
PREPARED REBUTTAL TESTIMONY
OF MICHEL PETER FLORIO
ON BEHALF OF THE CALIFORNIA PARTIES**

Michel Peter Florio is a Commissioner at the California Public Utilities Commission and a former consumer advocate with extensive experience relating to retail ratemaking. He also has personal knowledge of events that transpired during the Crisis in 2000-2001 and served as a member on the Board of Governors of the California Independent System Operator Corporation from 1997 to 2005.

Commissioner Florio first responds to Answering Testimony in this case from Shell's witness Mark Fulmer, Iberdrola's witness William A. Monsen, and FERC Trial Staff's witness Daniel L. Poffenberger that contends the nearly \$2 billion in nominal (*i.e.*, before accounting for time value) overcharges paid under the Shell and Iberdrola Contracts did not impose an excessive burden on consumers. Commissioner Florio responds to their contentions that the overall percentage change to IOU retail rates caused by the overcharges is the appropriate measure of consumer burden in these circumstances, explaining, *inter alia*, that just the Shell and Iberdrola overcharges alone could have funded four to five new 550-MW Combined Cycle Gas Turbines, or almost two years of low income ratepayer assistance and energy efficiency programs. Commissioner Florio further rebuts the accusation that he did not present an analysis of the consumer rate impacts of the Shell and Iberdrola Contracts, and explains why, based on his analysis, he concluded that the contracts imposed an excessive burden on consumers.

Commissioner Florio further addresses criticisms regarding the portion of the bonds issued by CDWR that are properly attributed to the Shell and Iberdrola Contracts. He explains that the bonds (which were issued for a term through 2022) financed all the costs CDWR incurred from 2001-2002, less remittances, and that it was, therefore, appropriate to determine Shell's and Iberdrola's share of costs using this same time period. It was not until 2003 that that Power and Bond Charges sufficient to cover CDWR's going forward power purchases, including the purchases from Shell and Iberdrola, as well as the ongoing bond costs, were instituted.

Finally, Commissioner Florio responds to the testimony of Shell Witnesses Lynn A. Lednicky and Edward Brown that CDWR had strong bargaining power in its long-term contract negotiations as the only creditworthy buyer of long-term power in the ISO market at that time in 2001. Commissioner Florio explains that Shell's description is completely out of touch with the reality that existed in California when the Shell Contract was being negotiated: a period when the citizens, businesses and government struggled to cope with unprecedented power outages and exorbitant electricity prices. He further notes that in even in May 2001, the State and CDWR were bracing for a second summer of rolling blackouts and extremely high wholesale energy prices. He concludes that CDWR, with responsibility as the buyer of last resort in California, was negotiating with its back up against the wall; it had to get energy under contract or risk jeopardizing the State's electric grid.