UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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

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

Michel Peter Florio is a Commissioner at the California Public Utilities Commission (CPUC), and was an attorney for the consumer advocacy group The Utility Reform Network (TURN) and member of the Board of Governors at the California Independent System Operator (ISO) during the Crisis. His testimony describes how the Crisis was unprecedented in the modern history of the U.S. electric industry in terms of its severity, duration and consumer impacts. The key points of his testimony include the following:

Commissioner Florio relates how the Crisis impacted every aspect of life in California from May 2000 through July 2001, when the citizens, businesses and government struggled to cope with unprecedented days of power outages prolonged system emergency conditions. Commissioner Florio describes the unprecedented spike in the number of ISO system emergencies during the Crisis and in particular of Stage Three Emergencies, which the ISO has <u>never</u> otherwise declared during its sixteen years of operations. Commissioner Florio explains how consumers especially in the service territory of San Diego Gas & Electric suffered severe economic hardships at the onset of the Crisis, leading him to conclude that consumers could not absorb a full pass through of the inflated wholesale energy prices in their retail rates. Commissioner Floris explains how the State's major Investor Owned Utilities (IOUs) quickly become insolvent despite a one-cent per kWh rate increase approved in January 2001 due to exorbitant wholesale prices that were suspected at the time, and have since been confirmed, to be the result of sellers' massive market manipulation.

Commissioner Florio describes the sense of panic throughout the spring of 2001 as California's leaders watched the State's $6 billion dollar budget surplus bleeding down at a rate of $1 billion per month to pay for electricity, even as system emergencies and power outages became a way of life in California. Commissioner Florio describes conditions as California's leaders braced for a second summer of rolling blackouts and extremely high wholesale energy prices. Recounting predictions that made further blackouts seem inevitable for the summer 2001, including assessments issued by the ISO and North American Electric Reliability Council (NERC) and reports from news outlets following additional rolling blackouts in March and May, 2001, Commissioner Florio concludes that CDWR needed to execute the Long-Term Contracts to provide stability to the supply of power and reduce California's exposure to the Spot Markets.

Commissioner Florio further describes how California consumers have paid, and will continue to pay, for the $37.5 billion the California Department of Water Resources (CDWR) spent on long-term contracts entered during the Crisis. Every penny of these costs has or will be fully paid by individual consumers, through rate hikes imposed on California ratepayers in 2001 and then later through the Bond Charges and Power Charges the CPUC approves each year.

Drawing from complaints the CPUC received in 2001-2002 and his experience as a ratepayer advocate, Commissioner Florio relays stories of the harsh impacts of high electricity rates and the 2001 rate hikes both from California's citizens (including extreme conservation measures taken to reduce bills, fears that people might lose their homes, and concerns of being able to pay high power bills and still afford basic necessities) and California's agricultural and industrial sector struggling to absorb soaring power costs and remain competitive in national markets.

Commissioner Florio testifies to the significant and excessive consumer burden imposed by the CDWR Long-Term Contracts, and specifically the Shell and Iberdrola Contracts, starting with the sheer enormity of their total costs. Commissioner Florio further explains that the ongoing <u>annual</u> costs to service the bond debt, and the <u>total</u> costs once the bonds are finally paid off in 2022, must also be considered part of the consumer burden. Referencing analysis presented by John Pacheco, Commissioner Florio observes that an astounding $164 million annually and $3.1 billion in total is attributable to the Long-Term Contract costs financed by the bonds – of which, $17.8 million in annual costs and $357 million in total costs are attributable to the Shell and Iberdrola Contracts. Commissioner Florio further explains that the consumer burden includes the excessive rates consumers have paid for the contracts. Relying on the analysis of Dr. Metin Celebi, who estimates of total overcharges under the CDWR Long-Term Contracts (including Shell and Iberdrola) and separately for the Shell and Iberdrola Contracts, Commissioner Florio concludes that consumers paid four to six times higher rates in 2001-2003 for power delivered under the Shell contract compared to what competitive rates would have yielded. Consumers paid two to three times higher rates in nearly every year for power delivered under of the Iberdrola Contract, compared to what competitive rates would have yielded.