

50-295/323

1 David L. Neale (SBN 141225)
Daniel H. Reiss (SBN 150573)
2 LEVENE, NEALE, BENDER, RANKIN & BRILL, L.L.P.
1801 Avenue of the Stars, Suite 1120
3 Los Angeles, CA 90067
Telephone: (310) 229-1234
4 Facsimile: (310) 229-1244

5 Norma G. Formanek (SBN 111474)
6 FARELLA BRAUN & MARTEL LLP
235 Montgomery Street, 30th Floor
7 San Francisco, CA 94104
Telephone: (415) 954-4400
8 Facsimile: (415) 954-4480

9 Attorneys for CALIFORNIA INDEPENDENT SYSTEM
10 OPERATOR CORPORATION

11 UNITED STATES BANKRUPTCY COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

15 In re
16 PACIFIC GAS AND ELECTRIC
COMPANY, a California corporation,
17 Debtor.
18 Tax Identification Number 94-0742640

Case No. 01-30923-DM
Chapter 11
OPPOSITION OF CALIFORNIA ISO TO
CERTAIN APPLICATIONS FOR
DISCLOSURE
Date: August 30, 2001
Time: 10:00 a.m.
Place: 235 Pine Street, 22nd Floor
San Francisco, CA
Judge: Hon. Dennis Montali

22 The California Independent System Operator Corporation (the "ISO") hereby opposes,
23 with exceptions set forth below, the applications of certain Market Participants for permission to
24 disclose confidential information produced by the ISO to individuals the Market Participants
25 claim to be "Key Personnel." This Opposition is supported by the attached Appendix and the
26 Declarations of Anjali Sheffrin and Norma Formanek, filed and served concurrently herewith.

27 I. INTRODUCTION

28 On July 11, 2001, this Court entered an Order Directing Production of documents to

Accol Add: Ricks Eye Mail Center

1 ISO/PX Market Participants Pursuant to Federal Rule of Bankruptcy 2004 and Protective Order
2 Respecting Confidentiality of Documents (the "Order" or "2004 Order"). The Order, which
3 followed a lengthy hearing on June 28, 2001, restricted dissemination of responsive documents to
4 Outside Professionals (defined at Order ¶ 5C).¹ It permitted, however, a Market Participant to
5 move by August 15 for permission to disclose to persons other than its Outside Professionals,
6 requiring that such applications be "in the form of, or supported by, declarations," and identify
7 the Key Personnel and his/her position, the "reasons why the Responsive Information or any part
8 thereof must be disclosed to such Key Personnel," and the measures that would be taken to
9 prevent disclosure to persons not entitled to the information. Order ¶ 6 (emphasis added).

10 While the ISO recognizes the general proposition that Bankruptcy Rule 2004 permits
11 parties to conduct what has been characterized as a "fishing expedition," Rule 2004 is not without
12 limits. In responding to this Court's invitation to allow the disclosure of materials produced by
13 the ISO to so-called "Key Personnel," the Market Participants have sought to exploit Rule 2004
14 to serve ends wholly unrelated to this bankruptcy case and, in so doing, attempt an end run around
15 discovery procedures and limitations applicable to other proceedings involving these same
16 parties. At the June 28 hearing, this Court made clear the prerequisites for disclosure of the 2004
17 Responsive Information beyond Outside Professionals:

18 THE COURT: I have in mind also a procedure that will have PG&E and any
19 of the participants to indicate in a filing and a document that they would serve
20 a well articulated reason why the information should be extended to persons
beyond the professionals, stated simply, in-house people.

21 Transcript at 105:10-14 (for the Court's convenience, an excerpt from the Transcript is Exh. A to
22 the Formanek Decl.); see 2004 Order, ¶ 6.

23 With few exceptions, the applications for leave to disclose to Key Personnel are far from
24 "well articulated." Many of the applications fail to provide adequate (or any) disclosure about the
25 particular responsibilities of the individuals to whom the information would be disclosed. In most
26 cases, the applications offer nothing about why the information "must" be disclosed (Order, ¶ 6),

27 _____
28 ¹ Capitalized terms in this brief are (unless within a quotation from another source) defined in the 2004 Order and given the same definitions here.

1 beyond unsupported conclusions generically stating that disclosure is necessary or may be
2 helpful. The applications offer no assurance that Key Personnel are not the very same people
3 who are engaged in competitive decision making in the California electricity wholesale market.

4 Of particular concern is the fact that the Order required, and ISO produced, in response to
5 Request Nos. F and I, not simply its reports on California electricity price increases and the
6 exercise of market power in the state's energy markets, but the methodologies, techniques and
7 tools employed by the ISO's Department of Market Analysis to monitor the California market
8 and to police against exercises of market power. Production of that information (which the ISO
9 will identify by bates numbers prior to the August 30 hearing) to insiders (Key Personnel) of the
10 companies that trade in those markets will materially impair the ISO's continuing ability to
11 conduct its monitoring function. See Declaration of Anjali Sheffrin, filed and served concurrently
12 herewith.

13 Because of the number of applications, many of which identify more than a half dozen
14 Key Personnel, an Appendix summarizing the objections is attached to this brief.

15 **II. THE SCOPE OF ISO'S OBJECTIONS**

16 At the outset, it is important to describe the disclosures to which the ISO does not object
17 and to explain the rationale for the objections it does assert.

18 First, the ISO does not object to disclosure to Key Personnel, consistent with the existing
19 Order, of documents and data produced in response to PG&E's Request Nos. A through E
20 (generally settlements and billing type data).

21 Second, the ISO has no objection to the Outside Professional for a Market Participant
22 taking the data and documents responsive to Request Nos. F through J, redacting data about other
23 Market Participants, and then sharing with Key Personnel the remaining information that is
24 specific to the Key Personnel's own company, subject to two caveats below. This is essentially
25 the proposal made by Sempra Energy Trading Corp. in its application.²

26 ² More specifically, Sempra's outside counsel undertakes to disclose to its client only those portions of the
27 Responsive Information that include: "(1) any amounts or specific references to SET [Sempra Energy Trading], (2)
28 any data specifically pertaining to SET (such as dollar volumes of purchases or sales of energy by or to SET, (3)
headings or document descriptions that describe the information set forth regarding SET; and (4) aggregate market
information (such as total dollar amounts or volumes of energy transactions that occurred in the ISO and PX
Markets) that cannot be traced to specific Market Participants" See Sempra Application at 2:11-20.

1 The first and most important caveat is this: the ISO objects to insiders affiliated with any
2 Market Participant having access to methodologies, techniques and tools employed by the ISO's
3 Department of Market Analysis to monitor the California market and to police against exercises
4 of market power. Such information provides the key to market participants as to how they can
5 structure their future behavior to circumvent or avoid detection by DMA. See Sheffrin
6 Declaration. The ISO will specifically identify those documents, which were produced in
7 response to Request Nos. F and I, and requests that this Court bar any broader dissemination of
8 those materials.

9 The second caveat pertains to the Debtor's application. PG&E clearly has need to assess
10 the claims asserted by all creditors and to prepare a plan of reorganization. By contrast, it is
11 difficult to understand why dissemination of information about other Market Participants is
12 necessary to allow a specific creditor to prepare and defend its claim. If such a circumstance
13 arises, the creditor could and should explicitly explain it to this Court; none has. Thus, as the
14 Court suggested during the June 28 hearing, broader dissemination of data to the Debtor than to
15 other Market Participants may be reasonable.

16 The ISO's rationale for the balance of its objections is this: production to Key Personnel
17 of data and documents produced in response to Request Nos. F through J, other than those
18 specifically pertaining to their employer or its affiliates, violates the ISO Tariff and offers the
19 opportunity, whether inadvertent or otherwise, for inappropriate use of the information and
20 manipulation of the California wholesale electricity market.

21 Briefly, the Tariff provides that individual bid data, such as that encompassed within the
22 responses to Request Nos. G and J and reported on in documents responsive to Request Nos. F, H
23 and I, is to be treated by the ISO as confidential (Tariff § 20.3.2). The Tariff further commands
24 that: "No Market Participant shall have the right hereunder to receive from the ISO or to review
25 any documents, data or other information of another Market Participant to the extent such
26 documents, data or information is to be treated as in accordance with [the confidentiality
27
28

1 provisions of the Tariff].” Tariff 20.3.3 (emphasis added)³. While the Tariff allows for
2 publication of composite information, it allows such publication “no sooner than six (6) months
3 after the Trading Day with respect to the Bid or Adjustment Bid and in a manner that does not
4 reveal the specific resource or the name” of the entity submitting the bid. Tariff § 20.3.4(a)
5 (emphasis added). FERC has ruled that publication of aggregated bidding information “with less
6 than six month’s delay does not protect the commercial sensitivity of the data.” California
7 Independent System Operator Corporation, 90 F.E.R.C. ¶ 61,316 at p.62,047 (2000) (Formanek
8 Decl., Exh. B).

9 The applicants may argue that if they don’t care if their trade secrets and trading
10 strategies are shared, the ISO should not. The answer to that is clear: the ISO is responsible for
11 ensuring “to the extent possible the efficient working of the ISO Markets ... and to provide for
12 their protection from abuses of market power in both the short term and the long term, and from
13 other abuses that have the potential to undermine their effective functioning or overall efficiency
14” ISO Market Monitoring and Information Protocol 1.1, at ISO Tariff Appendix L.⁴

15 **III. OBJECTIONS TO DISCLOSURES**

16 **A. Many of the Applications Must Be Rejected Because They Fail To Identify** 17 **“Key Personnel” with Sufficient Detail Or To Articulate Why Disclosure Is** 18 **Necessary.**

19 Evaluation of the individual disclosure applications is crippled in many cases by the
20 applicants’ failure to disclose anything about the Key Personnel beyond name and job title. See,
21 e.g., applications of Reliant, Tucson Electric, Duke, Merrill Lynch, Morgan Stanley, and El Paso
22 Merchant Energy. It is not possible, without more information, to evaluate whether a Vice
23 President of Asset Management or a Director of Asset Commercialization, to cite two of many

24 ³ Sections from the Tariff cited herein can be found at Formanek Decl., Exh. C, which is the Declaration of E.
Hildebrandt, filed with this Court in an earlier proceeding on July 31, 2001. The Tariff excerpts are Exh. A thereto.

25 ⁴ In the context of the pending FERC refund proceeding, the ISO has (by FERC order) produced to Market
26 Participants a much more narrow band of information, comprising only completed transactional data, not every bid
27 submitted, whether accepted or not. In response, some of the very same Market Participants, who are here
28 demanding broad in-house disclosure of the more detailed data, argued to FERC that the release of transactional data
might “allow sellers to exercise market power or reduce competition ... [or] permit suppliers to reconstruct very
sensitive data regarding their competitors’ costs.” Joint Motion of Marketer Group, San Diego Gas & Electric Co. v.
Sellers of Energy and Ancillary Services, etc., F.E.R.C. Dkts. EL00-95-045 and EL00-98-042, attached at Formanek
Decl., Exh. D.

1 possible examples, sets strategic policy for market operations or possesses some special skill that
2 cannot be brought to the table by an Outside Professional. For example, Duke's application asks
3 for disclosure to Ms. DeSchane, described only as a "Senior Vice President." A Duke press
4 release issued in the fall of 2000, however, offers that Ms. DeSchane is "vice president of [Duke
5 Energy of North America's] western trading operations." Formanek Decl., Exh. E.

6 Further, in setting up this process, the Court made clear that the application for broader
7 disclosure had to be supported by a "well articulated" reason why disclosure was necessary.
8 Transcript at 105:12; but there is nothing well articulated about most of the applications. For
9 example:

10 • Duke: "Access to the Responsive Information is necessary ... because [the Key
11 Personnel] need to be familiar with the information for purposes of these proceedings [or] in the
12 other proceedings." Duke Request at 1:22-28.

13 • Tucson Electric: Tucson's "General Counsel ... needs to be familiar with any
14 implications that the Responsive Information may have for assessing [its claims]" Tucson
15 Request at 2:20-24.

16 • Reliant: The Key Personnel are "assisting in the litigation and administrative
17 proceedings in which the responsive information is relevant, including the PG&E Bankruptcy
18 case." E.g., Reliant Motion at 7:12-14.

19 None of these "explanations" suggest that the proposed recipient has special knowledge or
20 expertise, unavailable from Outside Professionals, necessary to process and respond to this data.
21 Without a sufficient factual record before it, this Court should deny the applications.

22 **B. Disclosure To Persons Involved In California's Wholesale Electric Markets**
23 **Should Not Be Allowed, Whether Their Involvement Is "Direct," "Indirect,"**
"Daily," Or Otherwise.

24 The object of the Protective Order is to keep highly competitive information out of the
25 hands (and minds) of persons who could use it for commercial advantage. No aspersions are cast
26 on those persons screened from access. The Order is simply pragmatic recognition that once the
27 information is known, it is virtually impossible to prevent it from influencing one's future
28 analyses and decision making about the market. E.g., Safe Flight Instrument Corp. v. Sundstrand

1 Data Control, Inc., 682 F.Supp. 20, 22 (D. Del. 1988).

2 Several of the Market Participants' applications have couched their descriptions of the
3 responsibilities of their Key Personnel -- presumably offered to reassure the Court and parties that
4 information will not be used inappropriately -- in terminology that is, at best, ambiguous. For
5 example, Reliant asks to disclose the 2004 Response Information to a dozen Key Personnel,
6 reciting as to each an identical litany. Using the disclosure regarding John H. Stout as an
7 example, Reliant recites:

8 Mr. Stout [identified as Sr. Vice President, Asset Commercialization] is assisting
9 in the litigation and administrative proceedings in which the Responsive
10 Information is relevant, including the PG&E bankruptcy case. It is important that
11 Mr. Stout have access to the Responsive Information so that he can communicate
12 with in-house counsel and outside counsel and experts about this information for
13 use in the litigation and administrative proceedings, and assist in the preparation
14 of evidence for Reliant or review, evidence submitted by others which will
15 include this information. Mr. Stout is not directly involved in the day-to-day
16 trading of electricity. He agrees to abide by the confidentiality requirements.

17 Decl. of Michael Jines, ¶ 10. Nowhere does Reliant explain what it means by the key phrase "not
18 directly involved in the day-to-day trading of electricity." Does it mean that these Key Personnel
19 are indirectly involved with trading? Does it mean that they are involved in trading occasionally,
20 every other day, weekly, monthly, but not daily? Does it mean that they do not execute
21 individual trades but do participate in or direct decision making about trading strategies and
22 Reliant's activities in the California wholesale market? None of these crucial questions can be
23 answered by review of Reliant's disclosure.⁵

24 The applications filed by Dynegy and Mirant also beg the question of the meaning of the
25 word "trading." For each of its proposed Key Personnel, Dynegy represents that he or she "is not
26 engaged in, and is not responsible for, trading in the wholesale electricity markets." But Dynegy
27 nominates its Senior Vice President responsible for negotiating contracts for purchase and sale of
28 electricity in California to receive its competitors' data. Decl. of J. Paul, ¶ 5(i). Dynegy would
also disclose to persons charged with analysis of "bidding practices." Id. at ¶ 5(x), (xi), (xii).

26 ⁵ Moreover, Reliant does not even make the "not directly involved in the day to day trading of electricity"
27 representation as to two of its Key Personnel: Michael Spruell, described as the Manager of Market Analysis for
28 Reliant Energy Services, Inc., and Kevin Frankeny, Manager of West Operations for Reliant Energy Services, Inc.
One can only assume by the omission that Messrs. Frankeny and Spruell are directly involved in the day-to-day
trading of electricity.

1 Mirant uses almost identical language (“not involved directly in the day to day trading of
2 electricity”), at the same time that it nominates, among others, its Director of Trading Controls,
3 Director of Asset Modeling, and Vice President of Research, to receive the Responsive
4 Information. Declaration of B. Merryman (for Mirant) at ¶¶ D, E.

5 Such disclosures eviscerate any notion that the Responsive Information can actually be
6 kept out of the market place; they should not be allowed.

7 **C. Disclosure To In-House Counsel Is Appropriate Where The Attorney Is Not**
8 **Involved In The Company’s Competitive Decision Making.**

9 Numerous applicants have requested permission to produce Responsive Information to in-
10 house counsel. Such production may in some circumstances be appropriate.⁶ Virtually none of
11 the applications, however, creates a sufficient record upon which this Court can evaluate whether
12 disclosure is appropriate.

13 The law is well-settled that one competitor’s highly sensitive commercial information,
14 otherwise deserving of protection, should not be disclosed to its competitor’s in-house counsel if
15 “in-house counsel [is] involved in ‘competitive decision making’; that is, advising on decisions
16 about pricing or design ‘made in light of similar or corresponding information about a
17 competitor.’” Brown Bag Software vs. Symantec Corp., 960 F.2d 1465, 1470 (9th Cir. 1992),
18 quoting U.S. Steel Corp. vs. United States, 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984). While
19 crediting the good faith and integrity of Brown Bag’s in-house counsel, the court had to consider
20 “not only whether the documents could be locked up in cabinets, but also whether Brown Bag’s
21 counsel could lock up trade secrets in his mind” Id. at 1471. The trial court, affirmed by the
22 Ninth Circuit, held that the information should not be disclosed to the in-house lawyer because
23 his employment would “necessarily entail advising his employer in areas relating to Symantec’s
24 trade secrets ... [and that k]nowledge of Symantec’s trade secrets would place in-house counsel
25 in the ‘untenable position’ of having to refuse his employer legal advice on a host of contract,
26 employment, and competitive marketing decisions lest he improperly or indirectly reveal

27
28 ⁶ The ISO does not object to LADWP’s request that it be allowed to disclose data to its “in-house” counsel, two attorneys with the Los Angeles City Attorney’s Office.

1 Symantec's trade secrets." Ibid. See United States v. Dentsply Intern. Inc., 187 F.R.D. 152, 159-
2 60 (D. Del. 1999) ("the critical inquiry is whether in-house counsel is involved in competitive
3 decision making, such that the attorney 'would have a difficult time compartmentalizing his
4 knowledge'").

5 In United States v. Dentsply Intern. Inc., the court rejected as inadequate the affidavit of
6 general counsel stating that he did not "participate in the non-legal operating business matters of
7 the company, nor provide non-legal advice concerning competitive business issues" (187 F.R.D.
8 at 161, n. 8). The court concluded that competitively sensitive information should not be
9 disclosed to him, because he advised the client with respect to its potential acquisitions of other
10 commercial entities and its decision to enter into contracts. If the counsel had access to the
11 competitor's cost data or strategic plans, "he could make use of this information to augment [his
12 client's] efforts in making or implementing strategic acquisitions." 187 F.R.D. at 161.

13 Dynegy, Edison, El Paso, Enron, Merrill Lynch, Mirant, Morgan Stanley and Reliant have
14 all petitioned to disclose to in-house counsel. Not one of the applications affirmatively states that
15 the in-house counsel takes no role in the competitive decision making of the client as it relates to
16 California's wholesale energy markets, and most (El Paso, Merrill Lynch, Morgan Stanley,
17 Tucson Electric and Reliant) provide nothing more than a job title to describe the attorney's work.
18 The ISO submits that disclosure to in-house counsel for the above-listed entities should be denied.

19 **D. Enron's Privacy Objection.**

20 Enron's application should be rejected as completely insufficient for its failure to identify
21 by name, by job title, or even by job description, the persons to whom it wishes to disclose.
22 Enron claims that its silence is necessary "[t]o preserve the privacy of its employees" Enron
23 Application at ¶ 4, p. 2:19. Instead, Enron proposes disclosure to "a limited group of its
24 employees ... that have been assigned to manage Enron's exposure to PG&E ..., employees with
25 responsibility for the determination and computation of amounts due Enron by PG&E ... and
26 regulatory and compliance personnel, auditors and in-house legal personnel for the purpose of
27 rendering regulatory, compliance, audit or legal advice." [cite] Enron offers neither legal nor
28 factual support for its invocation of a privacy right. At the June 28 hearing, the Court stated with

1 respect to PG&E's objections to disclosing names (an objection later withdrawn): "I frankly
2 don't think that [it really is an invasion of anyone's personal privacy to disclose that person's
3 name] ..., and unless there is a compelling reason why the actual person's name should be
4 concealed from the public record," it should be disclosed in the application to permit access.
5 Order at 105:16-21. Enron provides no such compelling reason; its application should be denied.

6 **IV. CONCLUSION**

7 For the reasons set forth above, the California ISO respectfully submits:

8 • Disclosure of Responsive Information produced in response to Request Nos. A, B, C,
9 D and E of the 2004 Order to Key Personnel may be permitted, subject to the terms of the
10 Protective Order.

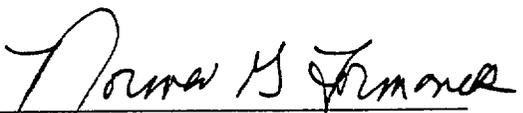
11 • Disclosure to Key Personnel of any Market Participant of methodologies, techniques
12 and tools employed by the ISO's Department of Market Analysis to monitor the California
13 market, produced in response to Request Nos. F and I and to be specifically identified by the ISO
14 before the August 30 hearing (some of the information is currently being numbered), should be
15 barred.

16 • Disclosure of Responsive Information (other than that described in the immediately
17 preceding bullet point) about a Market Participant to Key Personnel employed by that particular
18 Market Participant on the terms and conditions proposed by Sempra Energy Trading may be
19 permitted.

20 • Disclosure of Responsive Information on terms other than those described above
21 should be denied.

22 DATED: August 24, 2001

FARELLA BRAUN & MARTEL LLP

23
24 By: 
Norma G. Formanek

25
26 Attorneys for
CALIFORNIA INDEPENDENT SYSTEM
27 OPERATOR CORPORATION
28

EXHIBIT A
OPPOSITION OF CALIFORNIA ISO TO
CERTAIN APPLICATIONS FOR DISCLOSURE

APPLICANT	OBJECTIONS
Avista Energy, Inc.	Objection. Failure to adequately describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.
Duke Energy Trading and Marketing LLC	<p>Objection. Failure to describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.</p> <p>Of particular note, one of the key personnel (Ms. DeSchane) is described in Duke's application only as a "Senior Vice President." A Duke press release describes Ms. DeSchane as "Vice President of DENA [Duke Energy North America) <u>western trading operations.</u>" See Formanek Decl., Exh. A.</p>
Dynergy Power Marketing Inc.	<p>Objection. Failure to adequately describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.</p> <p>Of particular note: Dynergy proposes disclosure it a Sr. Vice President responsible for negotiating energy contracts for California, and to 3 individuals responsible for "analysis of . . . bidding practices." As to the rest of the proposed Key Personnel, the disclosure is not adequate to understand their relationship to this market.</p>
El Paso Merchant Energy, L.P.	<p>Objection. Failure to describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.</p> <p>Of particular note, there is no statement at all regarding necessity of disclosure to the Key Personnel.</p>
Enron	<p>Objection. Failure to describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.</p> <p>Of particular note, Enron does not disclose even the names or job titles of its Key Personnel, declaring instead that those are not disclosed for privacy reasons.</p>
Idaho Power Company	Objection. Failure to describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.

APPLICANT	OBJECTIONS
Los Angeles Department of Water and Power	<p>No objection disclosure to counsel within the City Attorney's Office.</p> <p>Objection to disclosure to LADWP in house personnel. Failure to describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.</p>
Merrill Lynch Capital Services Inc.	<p>Objection. Failure to describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.</p> <p>While the applicant states that the Key Personnel "possesses financial expertise not in the possession of outside counsel that is required to analyze the data contained in the Responsive information" (Decl. of J. Twombly on Behalf of Merrill Lynch, at 4:2-4, the "Key Personnel" holds the job title "Director and Senior Counsel," which does not square with the statement that the Key Personnel possesses unusual financial expertise.</p>
Mirant Americas Energy Marketing L.P. et al.	<p>Objection. Failure to describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.</p> <p>Of particular note: Mirant proposes disclosure to its "Director of Trading Controls," "Director of Asset Modeling," and "Vice President of Research." These job titles are particularly suggestive of direct involvement in the California energy market.</p>
Morgan Stanley Capital Group Inc.	<p>Objection. Failure to describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.</p> <p>The explanation for necessity of disclosure is identical to that provided for Merrill Lynch (compare Declaration of J. Twombly on Behalf of Merrill Lynch with Declaration of J. Twombly on Behalf of Morgan Stanley).</p>
PacifiCorp	<p>Objection. Failure to describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.</p> <p>Of particular note, PacifiCorp petitions for disclosure to its "VP - Trading and Origination," to its "Director of Trading," and to its "Managing Director - Trading Finance."</p>
Salt River Project	<p>Objection. Failure to describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.</p>
Sempra Energy Trading Corp.	<p>None.</p>

APPLICANT	OBJECTIONS
SoCal Edison	Objection. Failure to describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.
Tucson Electric Power Co.	Objection. Failure to describe job duties; to disavow Key Personnel's responsibility for competitive decision making; or to supply factual foundation supporting necessity of disclosure.