

ATTACHMENT A
(A-1)
OPERATING ORDER

OPERATING ORDER

Between

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

And

SOUTHERN CALIFORNIA EDISON COMPANY

THIS ORDER HAS BEEN FILED WITH AND APPROVED BY THE CALIFORNIA PUBLIC UTILITIES COMMISSION (“COMMISSION”) FOR USE BETWEEN THE STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES (“DWR”) AND SOUTHERN CALIFORNIA EDISON COMPANY (“UTILITY”).

Date of Commission Approval: December 19, 2002

Effective Date: December 19, 2002

OPERATING ORDER

This **OPERATING ORDER** (this “Order”) is between the State of California Department of Water Resources (“DWR”), acting solely under the authority and powers granted by AB1X, codified as Sections 80000 through 80270 of the Water Code, and not under its powers and responsibilities with respect to the State Water Resources Development System, and Southern California Edison Company, a California corporation (“Utility”). DWR and Utility are sometimes collectively referred to herein as the “Parties” and individually referred to as a “Party.” Unless otherwise noted, all capitalized terms shall have the meanings set forth in Article I of this Order.

RECITALS

WHEREAS, under the Act, DWR has entered into a number of long-term power purchase agreements for the purpose of providing the net short requirements to the retail ratepayers of the State's electrical corporations, including Utility; and

WHEREAS, the Contract Allocation Order of the Commission provides that such long-term power purchase agreements are to be operationally allocated among the State's electrical corporations, including Utility; solely for the purpose of causing the State's electrical corporations to perform certain specified functions, on behalf of DWR, including dispatching, scheduling, billing and settlements functions, all as such functions relate to those certain power purchase agreements allocated to each electrical corporation under the Contract Allocation Order; and

WHEREAS, DWR wishes to provide for the performance of such functions under the Allocated Contracts by Utility on behalf of DWR in accordance with such long-term power purchase agreements as provided in this Order; and

WHEREAS, consistent with the Contract Allocation Order, DWR will retain legal and financial obligations, together with any other functions not explicitly provided in this Order to be performed by Utility, with respect to each of the Allocated Contracts and it is the intent of DWR and the Utility that the provisions of this Order will not constitute an “assignment” of the Allocated Contracts as such term is used and as provided in each of the Allocated Contracts; and

WHEREAS, consistent with the Interim Contract Order of the Commission, DWR expects to enter into certain Interim Contracts prior to January 1, 2003 and DWR wishes to provide for the administration of such Interim Contracts by Utility.

NOW, THEREFORE, DWR agrees and Utility is ordered to do as follows:

ARTICLE I DEFINITIONS

Section 1.01. Definitions. The following terms shall have the respective meanings in this Order:

The following terms, when used herein (and in the attachments hereto) with initial capitalization, shall have the meaning specified in this Section 1.01. Certain additional terms are defined in the attachments hereto. The singular shall include the plural and the masculine shall include the feminine and neuter, and *vice versa*. “Includes” or “including” shall mean “including without limitation.” References to a section or attachment shall mean a section or attachment of this Order, as the case may be, unless the context requires otherwise, and reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented or restated through the date as of which such reference is made (except as otherwise specifically provided herein). Unless the context otherwise requires, references to Applicable Laws or Applicable Tariffs shall be deemed references to such laws or tariffs as they may be amended, replaced or restated from time to time. References to the time of day shall be deemed references to such time as measured by prevailing Pacific time.

“Act” means Chapter 4 of Statutes of 2001 (Assembly Bill 1 of the First 2001-02 Extraordinary Session) of the State of California, as amended.

“Allocated Contracts” means the long-term power purchase agreements operationally allocated to Utility under the Contract Allocation Order, without legal and financial assignment of such agreements to Utility, as provided in Schedule 1 attached hereto.

“Allocated Power” means all power and energy, including the use of such power or energy as ancillary services, delivered or to be delivered under the Contracts.

“Applicable Commission Orders” means such rules, regulations, decisions, opinions or orders as the Commission may lawfully issue or promulgate from time to time, which further define the rights and obligations of the Parties under this Order.

“Applicable Law” means the Act, Applicable Commission Orders and any other applicable statute, constitutional provision, rule, regulation, ordinance, order, decision or code of a Governmental Authority.

“Applicable Tariffs” means Utility’s tariffs, including all rules, rates, schedules and preliminary statements, governing electric energy service to Utility’s customers in its service territory, as filed with and approved by the Commission and, if applicable, the Federal Energy Regulatory Commission.

“Assign(s)” shall have the meaning set forth in Section 14.01.

“Bonds” shall have the meaning set forth in the Rate Agreement.

“Bond Charges” shall have the meaning set forth in the Rate Agreement.

“Business Day” means the regular Monday through Friday weekdays which are customary working days, excluding holidays, as established by Applicable Tariffs.

“Commission” means the California Public Utilities Commission.

“Confidential Information” shall have the meaning set forth in Section 11.01(c).

“Contracts” means the Allocated Contracts and the Interim Contracts.

“Contract Allocation Order” means Decision 02-09-053 of the Commission, issued on September 19, 2002, as such Decision may be amended or supplemented from time to time by the Commission.

“DWR Power” shall have the same meaning set forth in the Servicing Arrangement with such amendments to incorporate the Settlement Principles for Remittances and Surplus Revenues as provided in Exhibit C of this Order.

“DWR Revenues” means those amounts required to be remitted to DWR by Utility in accordance with this Order and as further provided in the Servicing Arrangement.

“Effective Date” means the effective date in accordance with Section 14.13, as such date is set forth on the cover page hereof.

“Fund” means the Department of Water Resources Electric Power Fund established by Section 80200 of the California Water Code.

“Good Utility Practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice does not require the optimum practice, method, or act to the exclusion of all others, but rather is intended to include acceptable practices, methods, or acts generally accepted in the Western Electric Coordinating Council region.

“Governmental Authority” means any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to a government, including the Commission.

“Governmental Program” means any program or directive established by Applicable Law which directly or indirectly affects the rights or obligations of the Parties under this Order and which obligates or authorizes DWR to make payments or give credits to customers or other third parties under such programs or directives.

“Interim Contract Order” means Decision 02-08-071 of the Commission, issued on August 22, 2002, as such Decision may be amended or supplemented from time to time by the Commission.

“Interim Contracts” mean the power purchase or exchange arrangements between DWR and various Suppliers entered into by DWR at the request of Utility and consistent with the Interim Contract Order, as listed in Schedule 2 attached hereto.

“ISO” means the California Independent System Operator Corporation.

“Order” means Decision 02-12-069 of the Commission, issued on December 19, 2002 as such decision may be amended or supplemented from time to time by the Commission.

“Power Charges” shall have the meaning set forth in the Rate Agreement.

“Priority Long Term Power Contract” shall have the meaning set forth in the Rate Agreement.

“Rate Agreement” means the Rate Agreement between DWR and the Commission adopted by the Commission on February 21, 2001 in Decision 02-02-051.

“Remittance” means a payment by Utility to DWR or its Assign(s) in accordance with the Servicing Arrangement.

“Servicing Arrangement” means the [Amended and Restated] Servicing [Agreement, dated December 19, 2002, between DWR and Utility, as amended] / [Order as specified in the Commission Decision 02-05-048 dated May 16, 2002.]

“Supplier” means those certain third parties who are supplying power pursuant to the Contracts.

“Term” means term provided in Section 2.05 hereof.

“URG” means utility-retained generation, including without limitation Utility’s portfolio of generation resources and power purchase agreements prior to or after the Effective Date by Utility.

Section 1.02. Undefined Terms. Capitalized terms not otherwise defined in Section 1.01 herein shall have the meanings set forth in the Act or the Servicing Arrangement.

ARTICLE II
**OPERATIONAL ALLOCATION OF POWER PURCHASE AGREEMENTS;
MANAGEMENT OF THE CONTRACTS; ALLOCATED POWER; TERM**

Section 2.01. Operational Allocation and Management of Power Purchase Agreements. On behalf of DWR Utility will perform certain day-to-day scheduling and dispatch functions, making surplus energy sales, billing and settlement and certain other tasks with respect to the Allocated Contracts, as more fully set forth in this Order. Utility shall also perform the same functions with respect to each Interim Contract.

As further provided in Contract Administration and Performance Test Monitoring Protocols set forth in Exhibit E, DWR will continue to monitor and audit the Supplier performance under the Contracts. Upon development of a mutually agreeable plan, Utility will monitor the performance of Suppliers, as further provided in Exhibit E, subject, however, to DWR's right but not the obligation to audit and monitor all functions contemplated to be performed by Utility, all as further provided in this Order.

Section 2.02. Standard of Contract Management. Utility agrees to perform the functions specified in this Order relating to the Allocated Contracts and Interim Contracts in a reasonable manner, exercising Good Utility Practice. DWR may review or challenge whether such performance complies with this Section 2.02 at any time and take any action with respect thereto as it may deem necessary; provided, however, that Utility shall not be deemed to be the violation of this section 2.02 by DWR unless DWR elected to challenge an action or in action by Utility as not being in compliance with this section 2.02.

Section 2.03. Good Faith. Each Party hereby covenants that it shall perform its actions, obligations and duties in connection with this Order in good faith.

Section 2.04. DWR Power. During the term of this Order, the electric power and energy, including but not limited to capacity, and output, or any of them from the Contracts delivered to retail end-use customers in Utility's service area shall constitute DWR Power for all purposes of the Servicing Arrangement. Utility further agrees to sell and transmit or provide transmission of surplus Allocated Power to third-party purchasers in accordance with the terms of this Order.

Section 2.05. Term. The Term of this Order shall commence on the Effective Date and shall terminate on the termination of the Servicing Arrangement. In addition, this Order will terminate as to each Contract that terminates in accordance with its terms. DWR agrees to notify Utility as to the termination of each Contract as provided in Section 5.01(e) hereof.

ARTICLE III
LIMITED AGENCY / NO ASSIGNMENT

Section 3.01. Limited Agency. Utility is hereby appointed as DWR's agent for the limited purposes set forth in this Order. Utility shall not be deemed to be acting, and shall not hold itself out, as agent for DWR for any purpose other than those described in this Order. Utility's duties and obligations shall be limited to those duties and obligations that are specified in this Order.

Section 3.02. No Assignment. DWR shall remain legally and financially responsible for performance under each of the Contracts and shall retain liability to the counterparty for any failure of Utility to perform the functions referred to in this Order on behalf of DWR under such Contracts in accordance with the terms thereof. It is the intent of DWR and Utility that the provisions of this Order shall not constitute an "assignment" of the Allocated Contracts as such term is used, and as provided, therein.

ARTICLE IV LIMITED DUTIES OF UTILITY

Section 4.01. Limited Duties of Utility as to the Contracts. During the Term of this Order, Utility shall:

- (a) Perform the day-to-day scheduling and dispatch functions, including day-ahead, hour-ahead and real time trading, scheduling transactions with all involved parties, making surplus energy sales and obtaining relevant information for these functions such as transmission availability and others, with respect to the Allocated Contracts set forth in Schedule 1 hereto, all as more specifically provided in the Operating Protocols attached hereto as Exhibit A;
- (b) Enter into transactions for the purchase (or sale, as the case may be) of gas, gas transmission services, gas storage services and financial hedges, and perform the operational and administrative responsibilities for such purchases under gas tolling provisions under the Allocated Contracts, including the review of fuel plans and consideration of alternative fuel supply, all as more specifically provided in the Fuel Management Protocols attached hereto as Exhibit B;
- (c) Remit DWR Revenues to DWR, consistent with the Settlement Principles for Remittances and Surplus Revenues attached hereto as Exhibit C and the Servicing Arrangement;
- (d) Assume financial responsibility for the ISO charges listed on Exhibit D attached hereto;
- (e) Upon development of a mutually agreeable plan, monitor the performance of Suppliers under the Allocated Contracts and undertake the administration of the Allocated Contracts, as more specifically provided in

the Contract Administration and Performance Monitoring Protocols attached hereto as Exhibit E;

- (f) Provide to DWR the necessary information required by DWR as more specifically provided in the DWR Data Requirements From Utility attached hereto as Exhibit F to facilitate DWR's continued performance of financial obligations related to Allocated Contracts and to facilitate DWR's audit, monitoring and reporting requirements related to the Allocated Contracts;
- (g) At all times in performing its obligations under this Order (i) comply with the provisions of each of the Allocated Contracts, (ii) follow Good Utility Practice, (iii) comply with all Applicable Laws and Applicable Commission Orders, and (iv) comply with the applicable principles, guidelines, standards and requirements of FERC, NERC, WECC, a regional transmission operator and the ISO;
- (h) Appoint a primary and secondary contact person, as set forth in Schedule 3 hereto, to coordinate the responsibilities listed in this Section 4.01; and
- (i) Prior to novation of the Interim Contracts by Utility in accordance with the terms of each such Interim Contract, comply with the provisions listed in paragraphs (a) through (h) of this Section 4.01, in each case substituting the defined term Interim Contract(s) for the term Allocated Contract(s).

Provided, however, in the event that DWR fails to provide or provides inaccurate information which results in Utility's non-compliance with its obligations under this Order, the resulting non-compliance by Utility shall not constitute an Event of Default under Section 7.01 hereof.

Section 4.02. Dispatch or Sale of Allocated Power. Subject to any existing or new ISO tariff provisions that may affect the dispatch of such Contracts, Allocated Power from all Contracts shall be dispatched or sold, as the case may be, by Utility pursuant to the Operating Protocols attached hereto as Exhibit A.

Section 4.03. DWR Revenues. DWR Revenues shall be accounted and remitted to DWR consistent with the principles provided in the Settlement Principles for Remittances and Surplus Revenues attached hereto as Exhibit C and the provisions of the Servicing Arrangement. Unless otherwise specifically provided in this Order, Utility will not be required at any time to advance or pay any of its own funds in the fulfillment of its responsibilities under this Order.

Section 4.04. Ownership of Allocated Power. Notwithstanding any other provision herein, and in accordance with the Act and Section 80110 of the California Water Code, DWR shall retain title to all Allocated Power, including DWR Power. In accordance with the Act and Section 80104 of the California Water Code, upon the

delivery of Allocated Power to Utility's customers, those customers shall be deemed to have purchased that power from DWR, and payment for such sale shall be a direct obligation of such customer to DWR. In addition, DWR shall retain title to any surplus Allocated Power sold by Utility as provided in this Order.

ARTICLE V DUTIES OF DWR

Section 5.01. Duties of DWR. Consistent with the Contract Allocation Order, DWR shall:

- (a) Remain legally and financially responsible under each of the Contracts and cooperate with Utility in the transition from DWR to Utility the performance of the functions provided in this Order;
- (b) Assume legal and financial responsibility, and approve Utility's entering into transactions as DWR's limited agent, for the purchase (or sale, as the case may be) of gas, gas transmission services, gas storage services and financial hedges, and timely consent to Utility's performance of the operational and administrative responsibilities for such purchases under gas tolling provisions under the Allocated Contracts, including the review of fuel plans and consideration of alternative fuel supply, all as more specifically provided in the Fuel Management Protocols attached hereto as Exhibit B;
- (c) Pay invoices to the Suppliers.
- (d) Until such time as a mutually agreed upon plan may be entered into with Utility and approved by the Commission, and no earlier than January 1, 2004, continue to monitor the performance of Suppliers and conduct certain contract administration duties under the Allocated Contracts, all as more specifically provided in the Contract Administration and Performance Monitoring Protocols attached hereto as Exhibit E
- (e) Upon the termination of any Contract, submit in writing to Utility appropriate Schedules and Attachments to Exhibit A amended to reflect the termination of any Contract. Such amended Schedules and Attachments shall become effective only upon the effective date of the termination of such Contract. Provided, however, rights or obligations of the Parties that arise or relate to Utility's performance of its duties under this Order in respect of any terminated Contract shall survive until the expiration of any such right or obligation.
- (f) Appoint a primary and secondary contact person, as set forth in Schedule 3 hereto, to coordinate the responsibilities listed in this Section 5.01.

ARTICLE VI
[RESERVED]/SPECIAL CONTRACT TERMS

Section 6.01. Special Contract Terms. In addition to the obligations set forth in this Order, Utility shall comply with the terms and provisions applicable to the Interim Contracts as set forth in Schedule 2 hereto.

ARTICLE VII
EVENTS OF DEFAULT

Section 7.01. Events of Default. The following events shall constitute “Events of Default” under this Order:

(a) any failure by a Party to pay any amount due and payable under this Order that continues unremedied for five (5) Business Days after the earlier of the day the defaulting Party receives written notice thereof from the non-defaulting Party; or

(b) any failure by Utility to schedule and dispatch Contracts, consistent with the principles set forth in Exhibit A; or

(c) any failure (except as provided in (a) or (b)) by a Party to duly observe or perform in any material respect any other term or condition of such Party set forth in this Order, which failure continues unremedied for a period of 15 calendar days after written notice of such failure has been given to such Party by the non-defaulting Party; or

(d) any representation or warranty made by a Party shall prove to be false, misleading or incorrect in any material respect as of the date made; or

(e) an Event of Default (as defined under the Servicing Arrangement) shall have occurred and is continuing under the Servicing Arrangement.

Section 7.02. Consequences of Utility Event of Default. Upon any Event of Default by Utility, DWR may, in addition to exercising any other remedies available under this Order or under Applicable Law, (i) apply to the Commission and, if necessary, any court of competent jurisdiction for sequestration and payment to DWR or its Assign(s) of DWR Revenues or for specific performance of the functions related to the Contracts to be performed by Utility on behalf of DWR as provided in this Order.

Section 7.03. Consequences of DWR Event of Default. Upon an Event of Default by DWR (other than an Event of Default under 7.01(a)), Utility shall request that the Commission terminate this Order in whole or in part, Section 2.05 notwithstanding.

Section 7.04. Remedies. Subject to Article XIII of this Order, upon any Event of Default, the non-defaulting Party may exercise any other legal or equitable right or remedy that may be available to it under applicable law or under this Order, including, but not limited to, termination of this Order.

Section 7.05. Remedies Cumulative. Except as otherwise provided in this Order, all rights of termination, cancellation, or other remedies in this Order are cumulative. Use of any remedy shall not preclude any other remedy available under this Order.

Section 7.06. Waivers. None of the provisions of this Order shall be considered waived by either Party unless the Party against whom such waiver is claimed gives such waiver in writing. The failure of either Party to insist in any one or more instances upon strict performance of any of the provisions of this Order or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default.

ARTICLE VIII PAYMENT OF FEES AND CHARGES

Section 8.01. Utility Fees and Charges. As noted in the Contract Allocation Order, the details of the amount and recovery of administrative costs to Utility associated with the Contracts are expected to be considered in another Commission proceeding. As such, the Parties agree that the administrative costs to Utility will be recovered pursuant to such Commission proceeding. Utility shall enter the cost of such fees and charges in its Purchased Electric Commodity Account, or its successor or another account designated by the Commission on current basis, subject to subsequent Commission review.

ARTICLE IX REPRESENTATIONS AND WARRANTIES

Section 9.01. Representations and Warranties.

(a) Each person executing this Order for the respective Parties expressly represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Order.

(b) Each Party represents and warrants that it has the full power and authority to execute and deliver this Order and to perform its terms, that execution, delivery and performance of this Order have been duly authorized by all necessary corporate or other action by such Party, and that this Order constitutes such Party's legal, valid and binding obligation, enforceable against such Party in accordance with its terms.

(c) DWR represents and warrants that all necessary and appropriate notices, inducements, undertakings, approvals, and consents have been obtained from each Supplier to the Contract allocated to Utility in order for Utility to undertake its duties set forth in this Order in a timely and appropriate fashion.

**ARTICLE X
LIMITATIONS ON LIABILITY**

Section 10.01. Consequential Damages. In no event will either Party be liable to the other Party for any indirect, special, exemplary, incidental, punitive, or consequential damages under any theory. Nothing in this Section 10.01 shall limit either Party's rights as provided in Article VII above.

Section 10.02. Limited Obligations of DWR and Utility. Any amounts payable by DWR under this Order shall be payable solely from moneys on deposit in the Department of Water Resources Electric Power Fund established pursuant to Section 80200 of the California Water Code (the "Fund").

Section 10.03. Sources of Payment; No Debt of State. DWR's obligation to make payments hereunder shall be limited solely to the Fund and shall be payable as an operating expense of the Fund solely from Power Charges subject and subordinate to each Priority Long Term Power Contract in accordance with the priorities and limitations established with respect to the Fund's operating expenses in any indenture providing for the issuance of Bonds and in the Rate Agreement and in the Priority Long Term Power Contracts. Any liability of DWR arising in connection with this Order or any claim based thereon or with respect thereto, including, but not limited to, any payment arising as the result of any breach or Event of Default under this Order, and any other payment obligation or liability of or judgment against DWR hereunder, shall be satisfied solely from the Fund. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA ARE OR MAY BE PLEDGED FOR ANY PAYMENT UNDER THIS ORDER. Revenues and assets of the State Water Resources Development System, and Bond Charges under the Rate Agreement, shall not be liable for or available to make any payments or satisfy any obligation arising under this Order. If moneys on deposit in the Fund are insufficient to pay all amounts payable by DWR under this Order, or if DWR has reason to believe such funds may become insufficient to pay all amounts payable by DWR under this Order, DWR shall diligently pursue an increase to its revenue requirements as permitted under the Act from the appropriate Governmental Authority as soon as practicable.

**ARTICLE XI
CONFIDENTIALITY**

Section 11.01. Proprietary Information.

(a) Nothing in this Order shall affect Utility's obligations to observe any Applicable Law prohibiting the disclosure of Confidential Information regarding its customers.

(b) Nothing in this Order, and in particular nothing in Sections 11.01(e)(x) through 11.01(e)(z) of this Order, shall affect the rights of the Commission to obtain from Utility, pursuant to Applicable Law, information requested by the Commission, including

Confidential Information provided by DWR to Utility. Applicable Law, and not this Order, will govern what information the Commission may disclose to third parties, subject to any confidentiality agreement between DWR and the Commission.

(c) The Parties acknowledge that each Party may acquire information and material that is the other Party's confidential, proprietary or trade secret information. As used herein, "Confidential Information" means any and all technical, commercial, financial and customer information disclosed by one Party to the other (or obtained from one Party's inspection of the other Party's records or documents), including any patents, patent applications, copyrights, trade secrets and proprietary information, techniques, sketches, drawings, maps, reports, specifications, designs, records, data, models, inventions, know-how, processes, apparatus, equipment, algorithms, software programs, software source documents, object code, source code, and information related to the current, future and proposed products and services of each of the Parties, and includes, without limitation, the Parties' respective information concerning research, experimental work, development, design details and specifications, engineering, financial information, procurement requirements, purchasing, manufacturing, business forecasts, sales and merchandising, and marketing plans and information. In all cases, Confidential Information includes proprietary or confidential information of any third party disclosing such information to either Party in the course of such third party's business or relationship with such Party. Utility's Confidential Information also includes any and all lists of customers, and any and all information about customers, both individually and aggregated, including but not limited to customers' names, street addresses of customer residences and/or facilities, email addresses, identification numbers, Utility account numbers and passwords, payment histories, energy usage, rate schedule history, allocation of energy uses among customer residences and/or facilities, and usage of DWR Power. All Confidential Information disclosed by the disclosing Party ("Discloser") will be considered Confidential Information by the receiving Party ("Recipient") if identified as confidential and received from Discloser.

(d) Each Party agrees to take all steps reasonably necessary to hold in trust and confidence the other Party's Confidential Information. Without limiting the generality of the immediately preceding sentence, each Party agrees (i) to hold the other Party's Confidential Information in strict confidence, not to disclose it to third parties or to use it in any way, commercially or otherwise, other than as permitted under this Order; and (ii) to limit the disclosure of the Confidential Information to those of its employees, agents or directly related subcontractors with a need to know who have been advised of the confidential nature thereof and who have acknowledged their express obligation to maintain such confidentiality. DWR shall not disclose Confidential Information to employees, agents or subcontractors that are in any respect responsible for power marketing or trading activities associated with the State Water Resources Development System.

(e) The foregoing two paragraphs will not apply to any item of Confidential Information if: (i) it has been published or is otherwise readily available to the public other than by a breach of this Order; (ii) it has been rightfully received by Recipient from a third party without breach of confidentiality obligations of such third party and outside

the context of the provision of services under this Order; (iii) it has been independently developed by Recipient personnel having no access to the Confidential Information; (iv) it was known to Recipient prior to its first receipt from Discloser, or (v) it has been summarized, processed and incorporated for incorporation into reports, discussions, statements or any other further work product. In addition, Recipient may disclose Confidential Information if and to the extent required by law or a Governmental Authority, provided that (x) Recipient shall give Discloser a reasonable opportunity to review and object to the disclosure of such Confidential Information, (y) Discloser may seek a protective order or confidential treatment of such Confidential Information, and (z) Recipient shall make commercially reasonable efforts to cooperate with Discloser in seeking such protective order or confidential treatment. Discloser shall pay Recipient its reasonable costs of cooperating.

Section 11.02. No License. Nothing contained in this Order shall be construed as granting to a Party a license, either express or implied, under any patent, copyright, trademark, service mark, trade dress or other intellectual property right, or to any Confidential Information now or hereafter owned, obtained, controlled by, or which is or may be licensable by, the other Party.

Section 11.03. Survival of Provisions. The provisions of this Article XI shall survive the termination of this Order.

ARTICLE XII RECORDS AND AUDIT RIGHTS

Section 12.01. Records. Utility shall maintain accurate records and accounts relating to the Contracts in sufficient detail to permit DWR to audit and monitor the functions related to the Allocated Contracts to be performed by Utility, as contemplated under this Order. In addition, Utility shall maintain accurate records and accounts relating to DWR Revenues to be remitted by Utility to DWR, consistent with the Settlement Principles for Remittances and Surplus Revenues set forth in Exhibit C hereto. Utility shall provide to DWR and its Assign(s) access to such records. Access shall be afforded without charge, upon reasonable request made pursuant to Section 12.02. Access shall be afforded only during Business Hours and in such a manner so as not to interfere unreasonably with Utility's normal operations. Utility shall not treat DWR Revenues as income or assets of Utility or any affiliate for any tax, financial reporting or regulatory purposes, and the financial books or records of Utility and affiliates shall be maintained in a manner consistent with the absolute ownership of DWR Revenues by DWR and Utility's holding of DWR Revenues in trust for DWR (whether or not held together with other monies).

Section 12.02. Audit Rights.

(a) Upon 30 calendar days' prior written notice, DWR may request an audit, conducted by DWR or its agents (at DWR's expense), of Utility's records and procedures, which shall be limited to records and procedures containing information bearing upon Utility's performance of its obligations under this Order. The audit shall be conducted during Business Hours without interference with Utility's normal operations, and in compliance with Utility's security procedures.

(b) As provided in the Act, the State of California Bureau of State Audits (the "Bureau") shall conduct a financial and performance audit of DWR's implementation of Division 27 (commencing with Section 80000) of the California Water Code, and the Bureau shall issue a final report on or before March 31, 2003. In addition, as provided in Section 8546.7 of the California Government Code, pursuant to this Section 12.02, DWR or the State of California Department of General Services, the Bureau, or their designated representative ("DWR's Agent") shall have the right to review and to copy (at DWR's expense) any non-confidential records and supporting documentation pertaining to the performance of this Order and to conduct an on-site review of any Confidential Information pursuant to Section 12.03 hereof. Utility agrees to maintain such records for such possible audit for three years after final Remittance to DWR. Utility agrees to allow such auditor(s) access to such records during Business Hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Utility shall include a similar right for DWR or DWR's Agent to audit records and interview staff in any contract between Utility and a subcontractor directly related to performance of this Order.

Section 12.03. Confidentiality. Materials reviewed by either Party or its agents in the course of an audit may contain Confidential Information subject to Article XI above. The use of all materials provided to DWR or Utility or their agents, as the case may be pursuant to this Article XII, shall comply with the provisions in Article XI and shall be limited to use in conjunction with the conduct of the audit and preparation of a report for appropriate distribution of the results of the audit consistent with Applicable Law.

Section 12.04 [Intentionally left blank]

Section 12.05. Additional Applicable Laws. Each Party shall make an effort to promptly notify the other Party in writing to the extent such Party becomes aware of any new Applicable Laws or changes (or proposed changes) in Applicable Tariffs hereafter enacted, adopted or promulgated that may have a material adverse effect on either Party's ability to perform its duties under this Order. A Party's failure to so notify the other Party pursuant to this Section 12.05 will not constitute a material breach of this Order, and will not give rise to any right to terminate this Order or cause either Party to incur any liability to the other Party or any third party.

Section 12.06. Other Information. Upon the reasonable request of DWR or its Assign(s), Utility shall provide to DWR or its Assign(s) any public financial information in respect of Utility applicable to services provided by Utility under this Order, or any

material information regarding the sale of Allocated Power, to the extent such information is reasonably available to Utility, which (i) is reasonably necessary and permitted by Applicable Law to monitor the performance by Utility hereunder, or (ii) otherwise relates to the exercise of DWR's rights or the discharge of DWR's duties under this Order or any Applicable Law. In particular, but without limiting the foregoing, Utility shall provide to DWR any such information that is necessary or useful to calculate DWR's revenue requirements (as described in Sections 80110 and 80134 of the California Water Code).

Section 12.07. Data and Information Retention. All data and information associated with the provision and receipt of services pursuant to this Order shall be maintained for the greater of (a) the retention time required by Applicable Law or Applicable Tariffs for maintaining such information, or (b) three (3) years.

ARTICLE XIII DISPUTE RESOLUTION

Section 13.01. Dispute Resolution. Should any dispute arise between the Parties or should any dispute between the Parties arise from the exercise of either Party's audit rights contained in Section 12.02 hereof, the Parties shall remit any undisputed amounts and agree to enter into good faith negotiations as soon as practicable to resolve such disputes within (10) Business Days so as to resolve such disputes, as appropriate, within the timeframes provided under this Order, or as soon as possible thereafter. For any disputed Remittances, if such resolution cannot be made before the remittance date, Utility shall remit the undisputed portion to DWR. In addition, the disputed portion of the Remittances shall be deposited into an escrow account held by a qualified, independent escrow holder. Upon resolution of such disputes, the Party that escrowed the disputed amount shall reimburse the other Party from the escrow account as necessary.

Section 13.02. ISO Settlements Disputes. Utility shall review, validate and verify all ISO charges/credits contained on all ISO settlement statements, including any charges/credits resulting from the operational, dispatch, and administrative functions related to the Contracts. Utility shall inform DWR of any discrepancies and shall dispute any such discrepancies with the ISO in accordance with the ISO's tariff and protocols. Except as provided in Section 13.03, if any ISO charge type settlement amount appearing on a Preliminary or Final Settlement Statement (as defined in the ISO tariff) resulting or relating to the Utility's performance of functions related to the Contracts under this Order is in dispute, it shall be the responsibility of Utility, on behalf of DWR, to seek resolution of said dispute through the ISO dispute resolution process as provided in the ISO's tariff.

For disputes affecting Utility's Remittances to DWR, including disputes on ISO charges to non-DWR parties that would affect Remittances to DWR, Utility shall provide to DWR: a) notification of submission of the dispute through the ISO dispute resolution process, identifying, among other items, the dispute type, quantity, price and allocation; b) a copy of the submitted dispute and all supporting data; and c) a copy of all ensuing documentation resulting from the ongoing dispute resolution process. Utility shall track and validate all disputed ISO charges involving any financial responsibility of DWR.

Section 13.03. Supplier Invoice Disputes - DWR shall continue to be responsible for all dispute resolution relating to Supplier invoices. In addition, except as specifically provided in Exhibit E of this Order, all other contract administration functions shall remain DWR's responsibility.

Section 13.04. Good-Faith Negotiations. Should any dispute arise between the Parties relating to this Order, the Parties shall undertake good-faith negotiations to resolve such dispute. If the Parties are unable to resolve such dispute through good-faith negotiations, either Party may submit a detailed written summary of the dispute to the other Party. Upon such written presentation, each Party shall designate an executive with authority to resolve the matter in dispute. If the Parties are unable to resolve such dispute within 30 days from the date that a detailed summary of such dispute is presented in writing to the other Party, then either Party may, at its sole discretion, submit the dispute to the Commission for final resolution.

Section 13.05. Costs. Each Party shall bear its own respective costs and attorney fees in connection with respect to any dispute resolution process undertaken by it pursuant to this Article. Provided, however, DWR shall reimburse Utility all reasonably incurred costs, including, but not limited to, in-house and retained attorneys, consultants, witnesses, and arbitration costs, arising from or pertaining to all disputes relating to ISO charges/credits contained on all ISO settlement statements resulting from the operational, dispatch and administrative functions related to the Contracts performed by Utility on behalf of DWR pursuant to the standards set forth in Section 2.02 herein and consistent with the provisions of the ISO tariff, as may be amended from time to time, including disputes on ISO charges to non-DWR parties that would affect Remittances to DWR. These costs shall be recorded and invoiced in the manner set forth in Section 8.01

ARTICLE XIV MISCELLANEOUS

Section 14.01. Assignment

(a) Except as provided in paragraphs(a) and (b) below, neither party shall assign or otherwise dispose of the Order, its right, title or interest herein or any part hereof to any part hereof to any entity, without the prior written consent of the Commission. No assignment of this Order shall relieve the assigning Party of any of its obligations under this Order until such obligations have been assumed by the assignee. When duly assigned in accordance with this Section 14.01(a) and when accepted by the assignee, this Order shall be binding upon and shall inure to the benefit of the assignee. Any assignment in violation of this Section 14.01 shall be void.

(b) DWR may assign or pledge its rights to receive performance hereunder to a trustee or another party ("Assign(s)") in order to secure DWR's obligations under its bonds (as that term is defined in the Act), and any such Assign shall be a third party beneficiary of this Order; provided, however, that this authority to assign or pledge rights to receive performance hereunder shall in no event extend to any person or entity that sells power or other goods or services to DWR.

(c) Any person (i) into which Utility may be merged or consolidated, (ii) which may result from any merger or consolidation to which Utility shall be a party or (iii) which may succeed to the properties and assets of Utility substantially as a whole, which person in any of the foregoing cases executes an agreement of assumption to perform every obligation of Utility hereunder, shall be the successor to Utility under this Order without further act on the part of any of the Parties to this Order; provided, however, that Utility shall have delivered to The Commission, DWR and DWR's Assign(s) an opinion of counsel reasonably acceptable to the Commission and DWR stating that such consolidation, merger or succession and such agreement of assumption complies with this Section 13.01(c) and that all of Utility's obligations hereunder have been validly assumed and are binding on any such successor or assign.

(d) Notwithstanding anything to the contrary herein, DWR's rights and obligations hereunder shall be transferred, without any action or consent of either Party hereto, to any entity created by the State legislature which is required under Applicable Law to assume the rights and obligations of DWR under Division 27 of the California Water Code.

Section 14.02. Force Majeure. Neither Party shall be liable for any delay or failure in performance of any part of this Order (including the obligation to remit money at the times specified herein) from any cause beyond its reasonable control, including but not limited to, unusually severe weather, flood, fire, lightning, epidemic, quarantine restriction, war, sabotage, act of a public enemy, earthquake, insurrection, riot, civil disturbance, strike, restraint by court order or Government Authority, or any combination of these causes, which by the exercise of due diligence and foresight such Party could not reasonably have been expected to avoid and which by the exercise of due diligence is unable to overcome.

Section 14.03. Severability. In the event that any one or more of the provisions of this Order shall for any reason be held to be unenforceable in any respect under applicable law, such unenforceability shall not affect any other provision of this Order, but this Order shall be construed as if such unenforceable provision or provisions had never been contained herein.

Section 14.04. Survival of Payment Obligations. Upon termination of this Order, each Party shall remain liable to the other Party for all amounts owing under this Order. Utility shall continue to collect and remit, pursuant to the terms of the Servicing Arrangement and the principles provided in the Settlement Principles for Remittances and Surplus Revenues provided in Exhibit C hereto and any DWR Charges billed to customers or any DWR Surplus Energy Sales Revenues attributable to sales entered into before the effective date of termination of the Servicing Arrangement.

Section 14.05. Third-Party Beneficiaries. The provisions of this Order are exclusively for the benefit of the Parties and any permitted assignee of either Party.

Section 14.06. Governing Law. This Order shall be interpreted, governed and construed under the laws of the State of California without regard to choice of law provisions.

Section 14.07. [intentionally left blank]

Section 14.08. Section Headings. Section and paragraph headings appearing in this Order are inserted for convenience only and shall not be construed as interpretations of text.

Section 14.09. Amendments. No amendment, modification, or supplement to this Order shall be effective unless it is in writing and signed by the authorized representatives of both Parties and approved as required, and by reference incorporates this Order and identifies the specific portions that are amended, modified, or supplemented or indicates that the material is new. No oral understanding or agreement not incorporated in this Order is binding on either of the Parties.

Section 14.10. Amendment Upon Changed Circumstances. The Parties acknowledge that compliance with any Commission decision, legislative action or other governmental action (whether issued before or after the Effective Date of this Order) affecting the operation of this Order, including but not limited to (i) dissolution of the ISO, (ii) changes in the ISO market structure, (iii) a decision regarding direct access currently pending before the Commission, (iv) the establishment of other Governmental Programs, or (v) a modification to the Contract Allocation Order may require that amendment(s) be made to this Order. If either Party reasonably determines that such a decision or action would materially affect the services to be provided hereunder or the reasonable costs thereof, then upon the issuance of such decision or the approval of such action (unless and until it is stayed), the Parties shall negotiate the amendment(s) to this Order that is (or are) appropriate in order to effectuate the required changes in services to be provided or the reimbursement thereof. If the Parties are unable to reach agreement on such amendments within 60 days after the issuance of such decision or approval of such action, either Party may, in the exercise of its sole discretion, submit the disagreement to the Commission for proposed resolution, in accordance with Applicable Law. Nothing herein shall preclude either Party from challenging the decision or action which such Party deems may adversely affect its interests in any appropriate forum of the Party's choosing.

The Parties shall, if the rating agencies request changes to this Order which the Parties reasonably determine are necessary and appropriate, negotiate in good faith, but will be under no obligation to reach agreement or to ask the Commission to amend this Order to accommodate the rating agency requests. The Parties will cooperate in obtaining any required approvals of the Commission or other entities for such amendments.

Section 14.11 Indemnification.

(a) Indemnification of DWR. Utility (the “Indemnitor”) shall at all times protect, indemnify, defend and hold harmless DWR, and its elected officials, appointed officers, employees, representatives, agents and contractors (each, an “Indemnified Party” or an “Indemnitee”) from and against (and pay the full amount of) any and all claims (whether in tort, contract or otherwise), demands, expenses (including, without limitation, in-house and retained attorneys’ fees) and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), to third parties arising from or in connection with (or alleged to arise from in connection with): (1) any failure by Utility to perform its material obligations under this Order; (2) any material representation or warranty made by Utility shall prove to be false, misleading or incorrect in any material respect as of the date made; (3) the gross negligence or willful misconduct of Utility or any of its officers, directors, employees, agents, representatives, subcontractors or assignees in connection with this Order; and (4) any violation of or failure by Utility or Indemnitor to comply with any Applicable Commission Orders or Applicable Law; provided, however, that the foregoing indemnifications and protections shall not extend to any losses arising from gross negligence or willful misconduct of any Indemnified Party.

(b) Obligation of Utility. Consistent with the Contract Allocation Order, Utility shall not, in acting as limited agent of DWR hereunder be required to perform any obligations of any Supplier under any Allocated Contract or to make any payments on behalf of such Supplier or as the result of the failure of such Supplier to perform under any Allocated Contract.

(c) Indemnification of Utility. To the extent permitted by law, DWR (“Indemnitor”) shall at all times protect, indemnify, defend and hold harmless Utility, and its officers, employees, representatives, agents and contractors (each, an “Indemnified Party” or “Indemnitee”), from and against (and pay the full amount of) any and all claims (whether in tort, contract or otherwise), demands, expenses (including, without limitation, in-house and retained attorneys’ fees) and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), to third parties arising from or in connection with (or alleged to arise from on in connection with): (1) any failure by DWR to perform its material obligations under this Order or any Allocated Contract and, prior to novation, any Interim Contract; (2) any material representation or warranty made by DWR shall prove to be false, misleading or incorrect in any material respect as of the date made; (3) the gross negligence or willful misconduct of the DWR or any of its officers, directors or employees, agents, representatives, subcontractors or assignees in connection with this Order; (4) any action claiming Utility failed to perform any Supplier’s obligations under an Allocated Contract; and (5) any violation of or failure by DWR or Indemnitor to comply with any Applicable Law; and provided, however, that the foregoing indemnifications and protections shall not extend to any losses arising from the gross negligence or willful misconduct of any Indemnified Party.

(d) Indemnification Procedures. Indemnitee shall promptly give notice to Indemnitor of any claim or action to which it seeks indemnification from Indemnitor. Indemnitor shall defend any such claim or action brought against it, and may also defend

such claim or action on behalf of the Indemnitee (with counsel reasonably satisfactory to Indemnitor) unless there is any actual or potential conflict between Indemnitor and Indemnitee with respect to such claim or action. If there is any actual or potential conflict between Indemnitor and Indemnitee with respect to such claim or action, Indemnitee shall have the opportunity to assume (at Indemnitor's expense) defense of any claim or action brought against Indemnitee by a third party; however, failure by Indemnitee to request defense of such claim or action by the Indemnitor shall not affect Indemnitee's right to indemnity under this Section 14.11. In any action or claim involving Indemnitee, Indemnitor shall not settle or compromise any claim without the prior written consent of Indemnitee.

Section 14.12. Notices and Demands. (a) Except as otherwise provided under this Order, all notices, demands, or requests pertaining to this Order shall be in writing and shall be deemed to have been given (i) on the date delivered in person, (ii) on the date when sent by facsimile (with receipt confirmed by telephone by the intended recipient or his or her authorized representative) or electronic transmission (with receipt confirmed telephonically or electronically by the intended recipient or his or her authorized representative) or by special messenger, or (iii) 72 hours following delivery to a United States post office when sent by certified or registered United States mail postage prepaid, and addressed as set forth below:

Utility: Southern California Edison Company

DWR: State of California
The Resources Agency
Department of Water Resources
California Energy Resources Scheduling Division
3310 El Camino Avenue, Suite 120
Sacramento, California 95821

Attn: Peter S. Garris
Deputy Director
Telephone: (916) 574-2733
Facsimile: (916) 574-0301
Email: pgarris@water.ca.gov

(b) DWR agrees, and with respect to Utility it is ordered that each Party shall be entitled to specify as its proper address any other address in the United States, or specify any change to the above information, upon written notice to the other Party complying with this Section 14.12.

(c) DWR agrees, and with respect to Utility it is ordered that, each Party shall designate on Attachment A the person(s) to be contacted with respect to specific

operational matters. Each Party shall be entitled to specify any change to such person(s) upon written notice to the other Party complying with this Section 14.12.

Section 14.13. Approval. This Order shall be effective on the effective date set forth in the decision in which the Commission adopts this Order. Except as expressly provided otherwise herein, neither Party may commence performance hereunder until such date. Any delay in the commencement of performance hereunder as a consequence of waiting for such adoption(s) shall not be a breach or default under this Order.

Section 14.14. Government Code and Public Contract Code Inapplicable. DWR has determined, pursuant to Section 80014(b) of the California Water Code, that application of certain provisions of the Government Code and Public Contract Code applicable to State contracts, including but not limited to advertising and competitive bidding requirements and prompt payment requirements, would be detrimental to accomplishing the purposes of Division 27 (commencing with Section 80000) of the California Water Code and that such provisions and requirements are therefore not applicable to or incorporated in this Order.

Schedule 1

ALLOCATED CONTRACTS

[Schedule 2

INTERIM CONTRACTS]

Schedule 3

REPRESENTATIVES AND CONTACTS