

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

San Diego Gas & Electric Company,)		
Complainant,)		
v.	)	Docket Nos.	EL00-95-004
Sellers of Energy and Ancillary Service into	)		EL00-95-005
Markets Operated by the California	)		EL00-95-019
Independent System Operator Corporation and	)		EL00-95-031
the California Power Exchange,)		
Respondents.)		
)		
Investigation of Practices of the California	)		EL00-98-004
Independent System Operator and the	)		EL00-98-005
California Power Exchange	)		EL00-98-018
	)		EL00-98-030
)		
Puget Sound Energy, Inc.,)		
Complainant,)		
v.)		
All Jurisdictional Sellers of Energy and/or	)		EL01-10-000
Capacity at Wholesale into Electric Energy	)		EL01-10-001
and/or Capacity Markets in the Pacific)		
Northwest, Including Parties to the Western)		
Systems Power Pool Agreement,)		
Respondents.)		

**DECLARATION OF CARL PECHMAN
IN SUPPORT OF THE CALIFORNIA PARTIES'
REQUEST FOR REHEARING OF THE COMMISSION'S
ORDER ESTABLISHING EVIDENTIARY HEARING PROCEDURES**

I, Dr. Carl Pechman, declare as follows.

- 1 I am the President of Power Economics, Inc., an economics consulting firm which provides expert analysis and testimony on subjects related to the economics of electricity. My business address is 180 7th Avenue, Suite 105, Santa Cruz, California 95062. Attached is my curriculum vitae.
- 2 Prior to founding Power Economics, I was a Director and Principal of the Law and Economics Consulting Group (LECG). At LECG I provided testimony and analysis on subjects relating to transmission pricing, cost unbundling, anti-competitive practices, electric system reliability, and power contract disputes.
- 3 I served as an economist with the New York Department of Public Service (NYDPS), the staff arm of the New York Public Service Commission (NYPSC). My tenure at the NYDPS was from 1979 through 1997. At the NYDPS, I was responsible for the economic analysis of electric utility costs, operation, and planning. In addition, I testified in rate cases, energy planning proceedings and siting cases for electric generation and transmission and competitive gas transmission pipelines. I was the staff economist assigned to the audit of the New York Power Pool and served as the co-lead of the NYPSC activities to create the New York Independent System Operator.
- 4 I hold a Ph.D. in Resource Economics from Cornell University in Ithaca, New York. My dissertation, which was published as *Regulating Power: The Economics of Electricity in the Information Age* (Kluwer Academic Publishers, 1993), evaluated impediments to the creation of competitive markets for electricity. My analysis identified market power as an impediment to competition and demonstrated how market power could result from power system design.
- 5 The purpose of my declaration is to show that the adoption of the spot gas price in the Federal Energy Regulatory Commission's (the Commission) refund methodology is

based upon an incomplete representation of the gas used for generation in the marginal generating unit. Instead of adopting the spot price methodology, the Commission should adopt a methodology that more closely reflects actual gas costs. This correction is necessary to assure just and reasonable rates and to avoid windfall profits to generators that would be enabled by the Commission's adoption of an inappropriate methodology.

- 6 The Commission relied upon a conclusion of the Chief Judge. The Chief Judge found that "[t]he public record also indicates that spot energy sales in the CAISO's markets are made with spot gas purchases (Tr. at 601). Therefore, the gas costs associated with the marginal unit should be based upon a daily spot gas price." (Report and Recommendation of the Chief Judge and Certification of Record, Issued July 12, 2001: pg. 6.) However, any generating unit, including the marginal generating unit, may burn a portfolio of gas: spot purchases, month-ahead purchases, and purchases made using other contractual arrangements. There is no evidence on the record that the marginal generating unit burned only spot purchase gas. In addition, the evidence upon which the Chief Judge and the Commission relied consists of the statement of a single witness during an on-the-record portion of the settlement conference. The testimony discusses gas procurement in the abstract. The witness did not purport to describe even how his own company, Reliant, purchases natural gas for generating purposes, let alone how each market participant structures its gas portfolio. Moreover, buyers were permitted no ability through discover to verify or challenge the statement's veracity.
- 7 The evidence relied upon by the Chief Judge was offered by John Stout of Reliant Energy. Mr. Stout testified that "[b]ut if you're selling into a spot market where you don't know from day to day exactly how much gas you need, it's impossible to arrange that gas on a month-ahead basis." (pg. 601) Mr. Stout's testimony on the purported limitation on the use of financial hedges for spot market purchases led the

Chief Judge to the conclusion that the gas costs associated with the marginal unit should be based upon a daily spot gas price.

- 8 As this Commission has found, during the refund period California relied primarily upon the spot market for the purchase of electric energy. For example, in November 2000, 88% of all electricity was traded in the spot market.¹ Consequently, a prudent generator would anticipate sales into the spot market and arbitrage its risk of those spot market sales by creating a diverse gas portfolio that did not rely solely on spot gas purchases. Failure to do so would conflict with good business practice by subjecting a generator to unnecessary risk that would likely disadvantage its competitive market position.
- 9 Reliant's financial statements describe its gas procurement for its non-rate regulated electric generators. Reliant is an integrated corporation, that self-provides gas for its generating assets. Reliant's Securities and Exchange Commission (SEC) Form 10-Q for the quarter ending June 30, 2000 at pg. 20 states:

The Company believes its energy trading, marketing and risk management activities maintained by Reliant Energy Services complement Power Generation's strategy of acquiring, developing and operating non-rate regulated generation assets in key domestic markets. Reliant Energy Services purchases fuel to supply Power Generation's existing generation assets and also sells the electricity produced by these assets.

- 10 Mr. Stout's statements on the limitations of financial instruments are inconsistent with Reliant's statements in its Form 10-Q for the Quarterly Period Ending June 30, 2001, submitted to the Securities and Exchange Commission (pg. 13) where Reliant discusses the impact of the Commission's June 19th order and says that "any adverse impacts of the mitigation plan on our operations would be mitigated, in part, by our

¹ Testimony of Patrick K. McAuliffe on behalf of the California Electricity Oversight Board filed on May 23, 2001 in support of the Board's request for rehearing of the Commission's April 26 Order in EL00-95.

forward hedging activities.” In other words, to deal with the Commission’s mitigation plan for the spot market, Reliant relies in part on its forward hedging activities which are precisely the activities that Mr. Stout stated were impossible.

- 11 Mr. Stout’s statement that “it’s impossible to arrange that gas on a month-ahead basis” (Tr. 601) means that Reliant and other similarly-situated suppliers could not obtain a 100% full requirements gas supply arrangement. This statement is inconsistent with the following claims of Williams Energy, Duke Energy and Dynegy respectively. It is logical to assume that these three companies avail themselves of the broad array of financial services that they offer to the market. Month ahead services are only one of the financial options available for generation in spot electric markets.

- 12 Williams Energy advertises that:

Full requirements arrangements exemplify William’s commitment to tailoring solutions that meet the complex needs of utilities, municipalities, cooperating and other counterparties in need of risk management services in a volatile environment. These sophisticated deals can take a variety of forms, mitigate a multitude of risks and satisfy a litany of customer-specific needs – from managing natural gas and/or power supply arrangements to following and satisfying a growing load profile to securing insurance against unplanned outages or other scenarios. ... [F]ull requirements deals can be structured for any counterparty.”

<http://www.williamsenergy.com/emt/riskmanagement/media/pdf/fullrequirements.pdf>

- 13 Duke Energy also offers full requirements service:

Backed by physical pipeline capacity, storage and competitively priced supply contracts, Duke Energy North America provides standard offer service/all requirements service ... Under a standard offer contract, Duke Energy North America optimizes the value of a customer’s assets by assuming control of their physical supply contracts. Duke Energy North America manages these assets as part

of a larger energy portfolio where we are able to maximize efficiencies and capture operational synergies. Customers in return are offered an indexed or fixed energy supply contract through which they receive energy supply and transportation services designed to match specific daily and seasonal load requirements.

(http://www.dena.duke-energy.com/frame.asp?/services/gas_standard.asp)

Duke Energy North America also provides integrated natural gas delivery and supply services under long-, medium- and short-term contracts. These services include base-load, swing and peak supply; daily scheduling and gas control; balancing, parking and loaning of natural gas; customized risk management products; and physical and synthetic storage services.

(http://www.dena.duke-energy.com/frame.asp?/services/gas_other.asp)

- 14 Dynegy, in its 2000 Annual Report, also describes its significant risk management capabilities:

The merchant leverage effect is Dynegy's arbitrage-driven approach to wholesale markets. Capitalizing on the complimentary relationship between our marketing, trading and logistics optimization capabilities and ownership or control over related physical assets, it is what drives Dynegy Marketing and Trade's Financial performance. (pg.6)

Our risk management system allows us to mitigate risk in volatile markets. (pg. 7)

- 15 Mr. Stout's analysis unreasonably requires that to enter into a hedge or forward contract, a generator would need to "know from day to day exactly how much gas you need or when you're going to need it." (pg. 601). This statement is internally inconsistent. Forward contracting is a tool that is used to manage risk and uncertainty. Yet the implication of Mr. Stout's argument is that because there is risk and uncertainty, it is impossible for the gas used in the marginal unit to be purchased in forward markets.

- 16 Mr. Stout concedes that it is possible to purchase gas on a month-ahead basis. In fact, he states that “prudent risk management requires that if you’re going to sell into a long-term market, you might buy monthly gas or long-term gas.” The sale of electricity in the long-term market is itself a financial transaction. The actual dispatch of generating units is not fixed because of the presence of a long-term contract, but is dependent upon the cost of operating the generating unit versus the price in the electric system. Therefore, even generators that have long-term contracts have variability in their output and therefore gas consumption. When a generating unit enters into a forward gas contract, and does not use the gas to generate power, then it resells the gas.
- 17 In my opinion, the use of financial instruments to hedge the price of gas used in the marginal generating unit, in spot electricity markets is not “impossible,” but is a core business of many of the corporations that own generators participating in the California market. Gas consumed at the marginal generator is a mix of gas purchases. The Commission should reject the use of daily gas spot prices and, instead, rely on actual costs or alternative measures that better reflect actual costs.

CARL PECHMAN

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EDUCATION

Ph.D. Resource Economics, CORNELL UNIVERSITY, 1990.

Dissertation: *Reliability and Power: The Role of Regulation in the Transformation of Markets for Electric Generation*

M.S. Applied Econometrics and Quantitative Analysis, CORNELL UNIVERSITY, 1983.

Thesis: *The Impact on Ratepayers of Converting Generating Units from Oil to Coal Burning in New York State*

B.S. Biology, CORNELL UNIVERSITY, 1976.

PRESENT EMPLOYMENT

Power Economics, Inc., 1999 - present

President

- Founder of 'virtual consulting' firm with nine Ph.D. economists and electrical engineers providing consulting and strategic advice to a broad array of clients navigating the move to competition in the electric power industry.
- Currently serving as principal economic adviser to the California State Assembly in connection with efforts to resolve the California "electricity crisis." Activities include: testimony to the Federal Energy Regulatory Commission on market price mitigation, analysis of power contracts, strategies for selling thirteen billion dollar municipal bond to repay state budget for dollars spent to purchase power, strategies to resolve PG&E bankruptcy and return Southern California Edison to financial health, re-structuring of wholesale power markets and development of legislation.
- Electric price forecasting.
- Comparative analysis of the design and operation of competitive power markets (for the Electric Power Research Institute).
- Strategic analysis of power marketer entry into the New York retail electricity market.
- Design of demand response programs.
- Analysis of utility revenue requirements, finance and rates.
- Analysis of installed capacity (ICAP) markets.
- Design of market monitoring and mitigation.
- Design of standby and back-up rates.
- Rate design for Internet Data Centers.
- Training large customers to purchase of power in competitive markets.

- White paper for BOMA California on the effect of California electricity crisis on commercial real estate, with recommendations for resolving the crisis.
- Advice on sale of software technology that provided the basis for developing Adobe Atmosphere.
- Expert testimony:

Market power mitigation

Affidavit for the California Assembly before the Federal Energy Regulatory Commission (Dockets No. EL00-95-012, No. EL00-98-000, No. RT01-85-000, No. EL01-68-000)

Asset valuation

Before the California Public Utilities Commission -- Application of Pacific Gas and Electric Company to Market Value Hydroelectric Generating Plants and Related Assets Pursuant to Public Utilities Code Sections 367(b) and 851 (testimony and cross-examination).

Utility cost analysis and rate design

Before the New York Public Service Commission Case 99-S-1621 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Steam Service (testimony submitted).

Power contract litigation

Hydrocarbon Generation, Inc. and Allegany Limited Partnership v. Niagara Mohawk Power Corporation, Before the Superior Court of the State of New York, Cattaraugus County (deposition).

Commercial contract litigation

Doyle and Schmidt v. Corbin, Before the Superior Court of the State of California in the County of Monterey. (jury testimony).

PROFESSIONAL EXPERIENCE

LECG, INC., 1997-1999

Director

- Wholesale electric market design:
 - energy, capacity and transmission pricing;
 - market governance;

- planning.
- Analysis of market power in the Alberta power system.
- Economic analysis of electric system reliability.
- Regulatory treatment of distribution companies.
- White paper prepared for the Edison Electric Institute on Codes of Conduct.
- Strategic assessment of power marketing opportunities.
- Strategic planning for an Independent System Operator.
- Comparative analysis of electric utility competitive strategies.
- Commercial consulting on competitive opportunities.
- Expert testimony:

Power contracts and damages

Norcon Power Partners v. Niagara Mohawk Power Corporation, Before the United States District Court for the Southern District. Testimony and deposition.

Coachella Valley Water District v. Imperial Irrigation District, Before the Superior Court of the State of California, County of San Bernadino. Deposition.

Cost unbundling

In the matter of the application of and complaint by Residential Electric, Incorporated, vs. Public Service Company of New Mexico, Case No. 2867. And in the matter of the application of Residential Electric, Inc. for a Certificate of Public Convenience and Necessity, Case No. 2868. Before the New Mexico Public Utility Commission.

NEW YORK STATE PUBLIC SERVICE COMMISSION, 1979-1997

Supervisor of Energy and Environmental Economics.

Successive promotions to positions of increasing responsibility.
Extensive analysis, testimony and complex management experience.

Expert testimony

- Testimony provided in over forty proceedings – described below – before the New York Public Service Commission, New York State Energy Planning Board, the New York State Board on Electric Generation Siting and the Environment, and the New York Department of Environmental Conservation.

Market Power

- *System design and market power*: Evaluated impact of wholesale electric system design on ability to exercise market power.
- *State action doctrine*: Reassessment of the State Action Doctrine in the light of competition.

- *Prudence of anti-competitive actions:* Regulatory treatment of revenues and costs associated with anti-competitive actions.

Electric Market Transformation

- *ISO Development:* Co-lead in regulatory process to design an Independent System Operator and Power Exchange for New York State. Departmental mediator in a multi-party process that resulted in an April, 1996 collaborative report on the development of the ISO. Departmental representative in negotiations with utilities. Coordinated and participated in the technical review of proposals.
- *Price Caps:* Developed price cap proposals.

Electricity Economics

- *Avoided Costs:* Developed, through negotiated and litigated proceedings, the methodology used for calculating avoided costs.
- *Cost studies and Pricing:* Preparation of marginal cost studies, analysis of electric system reliability, with emphasis on the relationship between planning concepts, costs and rate design.
- *Nuclear Power:* Economics and rate treatment of nuclear power plants.
- *Wheeling:* Task force leader in wheeling cost case that investigated alternative methodologies for calculating wheeling costs.
- *Power Pool Audit:* Economist assigned to audit of the New York Power Pool. Review of planning, pricing, and operations.
- *Energy Conservation:* Economic analysis of energy conservation options and regulatory impediments to the adoption of conservation.
- *Production Cost Modeling:* Supervised agency use of PROMOD.

Energy Planning and Siting

- *State Energy Plan:* Preparation of policy papers, analysis and testimony in State Energy Master Planning Process.
- *Analysis of Need:* Principal staff witness on the economics of “need” for energy-related facilities, including coal-fired power plants, electric transmission lines and natural gas pipelines.
- *Coal Conversion:* Department’s witness on the economics of re-converting coal capable oil-fired generating units to coal burning.

Environmental Economics and Policy

- *Externalities:* Member of the Keystone Dialogue on Utility Planning using Least-Cost Principles, addressing the use of externalities in the regulatory process.

- *Energy and Environmental Modeling*: Project manager for Cornell-Carnegie Mellon Universities Model, a successor to the Advanced Utility Simulation Model.
- *CAAA*: Analysis of utility compliance to the Clean Air Act Amendments of 1990.
- *Resource Use*: Economics of multi-use resources, such as balancing interests of lake level regulation for the Great Sacandaga Reservoir.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, 1991-1994.

Consultant

- Assisted Mosenergo, the Moscow electric utility, prepare a business plan for the transformation from a planned to a market economy.

URBAN SYSTEMS RESEARCH AND ENGINEERING, 1979

Environmental Economist

- Contract research to the US Council on Environmental Quality, Environmental Protection Agency, and Department of Energy.
- Analysis of energy and environmental interactions, the structure of the Mid-Atlantic fishing industry and industry response to sewer surcharges.

PUBLICATIONS AND POLICY PAPERS

- 1) "The California Electricity Crisis: A Report To the Building Owners And Managers Association (BOMA) of California," With Miles Bidwell, prepared for BOMA California, March 19, 2001.
- 2) "A Demand Response Will Lower Peak Prices," with Miles Bidwell, Duane Chapman, Tim Mount, prepared for Multiple Intervenors for presentation to the New York Independent System Operator, January 18, 2001.
- 3) "Retail Competition in New York: A Status Report," Prepared for Utility.com, September 26, 2000
- 4) "Developing Codes of Conduct: An Analysis of Parties and Positions," with Robert G. Harris. Prepared for and published by Edison Electric Institute, January, 1999.
- 5) *Regulating Power: The Economics of Electricity in the Information Age*, Kluwer Academic Publishers, 1993.
- 6) "Exporting Integrated Resource Planning to Less-Developed and Post-Communist Countries," with Marc Ledbetter, David Wolcott and Mark Cherniack, *Proceedings ACEEE Study on Energy Efficiency in Buildings, Integrated Resource Planning volume*, 1992.
- 7) *Report on the Management & Operations Audit of the New York Power Pool*, with fellow staff, New York State Department of Public Service, August 1991.

- 8) "Determining the Value of Electricity from Waste-to-Energy Facilities: A Comparison of Pricing Based Upon Avoided Costs and Bidding," *Proceedings: Fifth Annual Conference on Solid Waste Management and Materials Policy*, January 1989.
- 9) "The Regulator as Mediator/Negotiator," *Proceedings: National Association of Regulatory Utility Commissioners (NARUC) Sixth Biennial Regulatory Information Conference*, September 1988.
- 10) "Equity, Efficiency, and Sulfur Emission Reductions," *Public Utility Fortnightly*, May 16, 1985 (paper originally presented at the 1984 Air Pollution Control Association Annual Meeting).
- 11) "The Role of Public Utility Commissions in Evaluating Sulfur Emission Reduction Strategies," with William Deehan, *Proceedings: NARUC Fourth Biennial Regulatory Information Conference*, September 1984.
- 12) "Converting Oil Fired Generating Units to Coal in New York State," with Jack Lebowitz, *Northeastern Environmental Science*, vol. 1, no. 2, 1982.
- 13) "REVREQCON: A Model for Evaluating the Revenue Requirement of Coal Conversion Expenditures," with Charles Dickson, *Electric Ratemaking*, vol. 1, no. 3, June 1982.

PRESENTATIONS

- 1) "The Energy Crisis & Commercial Real Estate: Winning Lower Prices and Increased Reliability." Building Owners and Managers Association's National Advisory Council Spring Conference. San Francisco. March 2001.
- 2) "The Rationale for Market-based Customer Curtailment" presented at Price-Responsive Load Management: A New Opportunity in New York State Electricity Markets, sponsored by the New York Independent System Operator and the New York State Energy Research and Development Authority. Albany, NY. March, 2001
- 3) "The California Experience - Coming to a Busbar Near You?" Presented at Multiple Intervenor's Annual Meeting. Syracuse, New York October 19 – 20, 2000
- 5) "The Economics of Distribution Competition," presented at Competitive Challenge in Network Industries, The 13th Annual Western Conference of the Advanced Workshop in Regulation and Public Utility Economics, sponsored by Rutgers University, Graduate School of Management Center for Research in Regulated Industries, July 2000.
- 6) "The Changing Role of Regulation in Competitive Electric Markets," presented at the Independent Power Producers of New York. 13th Annual Spring Legislative Conference. Albany, New York. May, 1999.
- 7) "The Importance of Transaction Design in Divestiture," presented at Generation Asset Divestiture: Case Studies of Decisions, Valuations and Transactions, sponsored by AIC Conferences; Boston, MA, September 17-18, 1997.
- 8) "Reflecting the Value of Reliability in a Competitive Market," presented at Reliability for Competitive Power, co-sponsored by IBC Group and EPRI, San Francisco, CA, September 29-30, 1997.
- 9) "New York's Electric Power Restructuring and the Treatment of Nuclear Power," presented at Nuclear Power in the Competitive Era, sponsored by InfoCast; Washington, DC, January 1997.
- 10) "The Nuts and Bolts of Retail Access," presented at Multiple Intervenor's Conference; Albany, New York, May 23, 1996.
- 11) "The Regulator and Anti-Competitive Behavior," presented at the Eighth Annual Western Conference of the Advanced Workshop in Regulation and Public Utility Economics, sponsored by Rutgers University, Graduate School of Management Center for Research in Regulated Industries, July 1995.
- 12) "Retail Competition in New York's Electric Power Market," presented at Competitive Power Sourcing for Industrial Customers, sponsored by InfoCast; Chicago, March 1995.
- 13) "Environmental Implications of Electric Market Transformation," presented at New York State Network for Economic Research, Research-in-Progress Conference, December 1994.
- 14) "The Role of Information as a Marketing Tool in the Competitive Environment," presented at Marketing for Electric Utilities, sponsored by AIC Conferences; Washington, DC, October 1994.
- 15) "State Regulatory Perspectives on Emissions Trading," presented at SO₂ Emissions Trading in the Electric Utility Sector, sponsored by The Risk Management and Decision

- Process Center, The Wharton School and Philadelphia Electric Company; Philadelphia, Pennsylvania, October 1993.
- 16) "Competition and the Role of Regulators," presented at Keeping the Competitive Edge, sponsored by the Independent Power Producers of New York; Albany, New York, October 1993.
 - 17) "The Customer's Role in Integrated Resource Planning," presented at PQL -Partners in Quality Leadership, sponsored by Praxair, Inc.; Buffalo, New York, October 1993.
 - 18) "The Evolution of Integrated Resource Planning: Incorporating Environmental Externalities," invited paper presented at the Third USSR/US Bilateral Conference on the Use of Economic Instruments in Environmental Protection; Moscow, USSR, October 1991.
 - 19) "The Economics of Environmental Dispatch," presented at Rutgers University Advanced Workshop in Regulation and Public Policy Economics, February 1991. Also presented at the conference DSM and the Global Environment, sponsored by the US Environmental Protection Agency, The Edison Electric Institute, and the New York State Energy Research and Development Authority; Arlington, VA, April 1991.
 - 20) "Model Access and Administratively Determined Prices," presented at the Eighth Annual Conference of the Rutgers University Advanced Workshop in Regulation and Public Utility Economics; Newport, Rhode Island, May 1989.
 - 21) "Information Cartelization and the Control of Regulation," presented at the Allied Social Science Association Annual Meeting, December 1988.
 - 22) "Electric Capacity Planning in New York: Model Limited Choice and Inefficient Investment in Reliability," presented at the Sixth Annual Conference, Rutgers University Advanced Workshop in Regulation and Public Utility Economics, May 1987.
 - 23) "Using Production Costing Models to Estimate PURPA Buyback Rates: The New York Experience," National Association of Regulatory Utility Commissioners (NARUC) Fifth Biennial Regulatory Information Conference, September 1986.
 - 24) "Estimating Long Run Avoided Costs for New York State Electric Utilities," Fourth Annual Conference, Rutgers University Advanced Workshop in Public Utility Economics and Regulation, May 1985.
 - 25) "The Future of Energy Imports to the Northeastern United States," presented at the Corpus Energy Group - Energy Pricing Conference; Toronto, Canada, October 1983.
 - 26) "An Estimate of the Capacity Cost of the Shoreham Nuclear Power Plant," presented at the American Association for the Advancement of Science Annual Meeting, May 1983.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23rd day of August, 2001 at Sacramento, California.

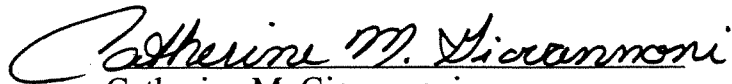
A handwritten signature in cursive script that reads "Carl Pechman". The signature is written in black ink and is positioned above a horizontal line.

Carl Pechman

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served on those parties on the official service list compiled by the Secretary in these proceedings.

Dated at Washington, D.C., this twenty-fourth day of August, 2001.



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