

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into as of July 10, 2003, (the “Execution Date”) by and among the Governor of the State of California, acting on behalf of the agencies, departments, subdivisions, boards, and commissions of the executive branch of the State of California; the California Electricity Oversight Board; the California Public Utilities Commission; the People of the State of California, by and through the Attorney General; and Morgan Stanley Capital Group Inc., and Morgan Stanley.

1. **Definitions.**

The following terms have the following meanings:

1.1. “2003 Buy-Back Transaction” means the power transaction in which MSCG agreed to purchase 10 MWhrs of CAISO Firm Energy from CDWR pursuant to the terms specified in the July 1, 2003 confirmation executed by MSCG and CDWR, a copy of which is attached hereto as Exhibit A.

1.2. “AG” means the People of the State of California, by and through the Attorney General Bill Lockyer.

1.3. “California Executive” means the Governor of the State of California, acting on behalf of the agencies, departments, subdivisions, boards, and commissions of the executive branch of the State of California, including, without limitation, DWR. California Executive shall not include the CPUC or any other body created by the California Constitution.

1.4. “California State Releasing Parties” means the California Executive, the CPUC, the CEOB and the AG.

1.5. “Due Diligence Period” means the period commencing on July 3, 2003 and ending when MSCG receives notice from the CPUC and the AG as contemplated in paragraphs 3.7 and 3.8 but in any event, no later than August 2, 2003 unless otherwise agreed.

1.6 “DWR” means the State of California Department of Water Resources, including without limitation, the California Energy Resources Scheduling Division.

1.6. “CEOB” means the California Electricity Oversight Board.

1.7. “CPUC” means the California Public Utilities Commission.

1.8. “Execution Date” has the meaning set forth in the first paragraph of this Settlement Agreement.

1.9. “Electric Power” means electric energy and related products, including capacity and ancillary services such as regulation, spinning reserve, non-spinning reserve and replacement reserve.

1.10 “FERC” means the Federal Energy Regulatory Commission.

1.11. “Gas Contract” means that certain NAESB Base Contract for Sale and Purchase of Natural Gas, as amended by Special Provisions, which modify and are incorporated into the NAESB Base Contract for Sale and Purchase of Natural Gas, together with the Transaction Confirmation to be negotiated between MSCG and CDWR pursuant to the terms of Paragraph 3.3 of this Settlement Agreement.

1.12. “Just and Reasonable” means that term as used in Sections 205 and 206 of the Federal Power Act, 16 U.S.C. Sections 824d and 824e.

1.13. “MSCG” means Morgan Stanley Capital Group Inc.

1.14. “Morgan Stanley” means Morgan Stanley, the parent corporation of MSCG.

1.15. “Morgan Stanley Parties” means MSCG and Morgan Stanley, but only with respect to the acts or omissions of its subsidiary MSCG.

1.16. “NAESB Base Contract means the North American Energy Standards Board, Inc. Base Contract for the Sale and Purchase of Natural Gas.

1.17. “Original Contract” means that certain Master Power Purchase and Sale Agreement (together with the cover sheet, confirmations and written supplements thereto, including without limitation, the confirmation letters dated February 15, 2001 and July 1, 2003) dated as of February 14, 2001, by and between the DWR and MSCG for the purchase and sale of power defined as the 2001A Transaction.

1.18. “Parties” means the persons and entities listed in the first paragraph of this Settlement Agreement, collectively, and their respective successors and assigns. Each of the Parties may be individually referred to herein as a “Party.”

1.19. “Released Claims” means any and all of the claims set forth and described in Paragraphs 4.1, 4.2, 4.3, 4.4 and 4.5.

1.20. “Renegotiated Contract” means that certain Amended and Restated Master Power Purchase and Sale Agreement (together with any exhibits, schedules, confirmation letters and written supplements thereto), executed as of the Execution Date, by and between the DWR and MSCG, for the purchase and sale of power defined as 2003A Transaction and the 2003 Buy-Back Transaction, a copy of which is attached hereto as Exhibit B.

1.21. “Settlement Agreement” means this agreement.

1.22 "Wholesale Marketing and Sales" means the activities of MSCG in the Electric Power markets in connection with its FERC market based rate authority as described in its FERC Rate Schedule No. 1, as amended from time to time.

2. **Recitals.**

2.1. To help further the objective of assuring a reliable supply of electricity for California's retail end-use consumers, the DWR entered into the Original Contract.

2.2. On August 2, 2000, San Diego Gas & Electric Company filed a Section 206 Complaint (Docket No. EL00-95-000, et al.) at FERC, which complaint was consolidated with complaints filed by other persons or entities, including inter alia the CEOB (Docket No. EL00-104-000). On October 26, 2000, Puget Sound Energy filed a Section 206 Complaint (Docket No. EL01-10-000, et al.) at FERC (collectively the "Refund Proceedings"). The AG, CEOB, CPUC, and CDWR are parties to the San Diego Gas & Electric Company proceeding, and the AG, CEOB, and CPUC are parties to the Puget Sound Energy proceeding..

2.3. On March 11, 2002, the People of the State of California, by and through Attorney General Bill Lockyer, filed a complaint in the California State Court in San Francisco County, Docket CGC-02-405432, alleging that various energy companies, not including MSCG, had engaged in unfair competition in the California ancillary services Electric Power markets (the "AG Unfair Competition Complaint").

2.4. On March 20, 2002, the People of the State of California, by and through Attorney General Bill Lockyer, filed a complaint at FERC in Docket No. EL02-71-000 under Sections 205 and 206 of the Federal Power Act alleging, among other things, that sellers which had made sales to DWR, Cal PX, and the CAISO were in violation of certain reporting and filing requirements (the "AG 206 Complaint").

2.5. Beginning in late 2000 and continuing through 2002, the People of the State of California, by and through Attorney General Bill Lockyer, served document retention requests on MSCG and various sets of subpoenas and interrogatories (the "AG subpoenas") on other entities pursuant to its investigation *In the Matter of the Investigation of Possible Unlawful, Unfair or Anti-Competitive Behavior Affecting Electricity Prices in California* (the "AG Investigation").

2.6. On February 25, 2002, the CPUC and the CEOB, respectively, filed separate complaints in Docket Nos. EL02-60-000 and EL02-62-000 under Section 206 of the Federal Power Act at the FERC alleging, among other things, that the terms and the rates under the Original Contract are not Just and Reasonable or consistent with the public interest (the "CPUC Complaint" and the "CEOB Complaint," respectively). On June 26, 2003, FERC issued an order denying the CPUC and CEOB Complaints.

2.7. On February 13, 2002, in Docket No. PA02-2-000, FERC issued an order directing Commission Staff to determine whether and, if so, the extent to which California and Western energy markets were manipulated during 2000 and 2001 ("FERC Investigation of Price Manipulation in Western Markets").

2.8. On June 25, 2003, FERC issued show cause orders to various sellers of electricity in the Western Markets, including MSCG, concerning alleged gaming and other anomalous market behavior in Docket No. EL03-160-000 and also concerning alleged gaming and/or anomalous market behavior through the use of partnerships, alliances or other arrangements in

Docket No. EL03-195-000 during the period January 1, 2000 to June 20, 2001 ("FERC Show Cause Orders").

2.9. Pursuant to AB1X, the DWR and the CPUC have executed the duly authorized Rate Agreement (the "Rate Agreement") providing for the recovery by DWR of its revenue requirements. The CPUC issued D. 02-02-051 on February 21, 2002, finding the Rate Agreement to be in the public interest and adopting it.

2.10. The Parties desire to resolve certain disputes pending between them by way of compromise rather than by litigation. The Parties have agreed to resolve such matters and to ensure the ongoing effectiveness and validity of the Renegotiated Contract, the 2003 Buy-Back Transaction, and the Gas Contract on the terms and conditions set forth in this Settlement Agreement.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and the execution of the 2003 Buy-Back Transaction, Renegotiated Contract, the Gas Contract, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed between and among the Parties as follows:

3. Closing.

3.1. Each Party shall execute six (6) copies of the Settlement Agreement. By 5:00 p.m. Pacific time on the Execution Date, each Party shall deliver or send by facsimile to each other Party one executed original or copy of this Settlement Agreement. Any Party that sends an executed copy of this Settlement Agreement by facsimile shall also send the signed original by overnight mail for delivery the following business day.

3.2. CDWR and MSCG shall execute four (4) copies of the Renegotiated Contract. By 5:00 p.m. Pacific time on the Execution Date, CDWR and MSCG shall deliver executed copies of the Renegotiated Contract to each of the California State Releasing Parties.

3.3. During the Due Diligence Period, CDWR and MSCG agree to negotiate in good faith the Gas Contract in accordance with the material terms set forth in Exhibit C, attached hereto. On, or before, 5:00 p.m. Pacific time at the end of the Due Diligence Period, CDWR and MSCG shall execute and deliver four (4) copies of the Gas Contract to each of the California State Releasing Parties.

3.4. By 5:00 p.m. Pacific time on the Execution Date, the California State Releasing Parties and MSCG shall have taken all actions necessary to authorize the execution and delivery of this Settlement Agreement, and the Renegotiated Contract.

3.5. During the Due Diligence Period, the AG will conduct due diligence for the purpose of determining the scope of his release in paragraph 4.4 of this Settlement Agreement. On July 1, 2003, MSCG provided documents to the AG, and during the Due Diligence Period, will respond to reasonable inquiries. By no later than the end of the Due Diligence Period, the AG shall advise the Morgan Stanley Parties whether the scope of the AG's release will be as stated in paragraph 4.4. If so, then the condition of this paragraph shall be satisfied. If, however, the AG

advises the Morgan Stanley Parties that the scope of the AG's release will be materially different from the release described in paragraph 4.4 of this Settlement Agreement, then the Parties will discuss in good faith a mutually satisfactory resolution; provided however that upon the expiration of the Due Diligence Period, if no resolution is reached this Settlement Agreement, the Renegotiated Contract, and the Gas Contract shall never become effective and the 2003 Buy-Back Transaction shall immediately terminate.

3.6 During the Due Diligence Period, the CPUC will conduct due diligence for the purpose of determining the scope of its release relating to the FERC Show Cause Orders as appears in paragraph 4.3 of this Settlement Agreement. On July 1, 2003, MSCG provided documents to the CPUC and, during the Due Diligence Period, will respond to reasonable inquiries. By no later than the end of the Due Diligence Period, the CPUC shall advise the Morgan Stanley Parties whether the scope of the CPUC's release will be as stated in paragraph 4.3. If so, then the condition of this paragraph shall be satisfied. If, however, the CPUC advises the Morgan Stanley Parties that the release described in paragraph 4.3 of this Settlement Agreements will not include the FERC Show Cause Orders, then the Parties will discuss in good faith a mutually satisfactory resolution; provided however that upon the expiration of the Due Diligence Period if no resolution is reached this Settlement Agreement, the Renegotiated Contract, and the Gas Contract shall never become effective and the 2003 Buy-Back Transaction shall immediately terminate.

3.7 This Settlement Agreement, including the releases and other actions provided for herein, and the Renegotiated Contract and the Gas Contract shall not become fully effective until the requirements of Paragraphs 3.1 through 3.6 have been satisfied (the date on which all such requirements have been satisfied, the "Effective Date"). If the Effective Date has not been achieved by 5:00 p.m. Pacific time at the end of the Due Diligence Period or such longer time as the parties may mutually agree in writing, this Settlement Agreement shall terminate and be of no further force and effect and the Renegotiated Contract and Gas Contract shall never become effective.

3.8 Within five (5) business days of the Effective Date, the CPUC and the CEOB shall have filed the Notice of Partial Withdrawal with FERC as contemplated in paragraph 4.2 below.

3.9 Notwithstanding Section 3.7 and the Effective Date provisions hereof, from and after the Execution Date, each Party hereto shall have complied with its obligations under this Settlement Agreement (to the extent such obligations are applicable prior to the Effective Date).

4. Mutual Releases.

4.1. The Original Contract and the Renegotiated Contract

Each of the California State Releasing Parties for itself hereby releases, acquits and forever discharges any and all claims of any nature whatsoever that it ever had, now has, or hereafter can, shall, or may have against the Morgan Stanley Parties based on, or arising out of, in whole or in part, (1) the Original Contract or (2) issues relating to the effectiveness, due authorization, validity, or enforceability of any of the obligations of any of the California State Releasing Parties

under the Renegotiated Contract or whether such obligations are Just and Reasonable or in the public interest.

This release does not constitute a waiver by the California State Releasing Parties of the right to pursue remedies under the Renegotiated Contract for acts and omissions from and after the Effective Date as provided therein, including but not limited to: (1) claims of breach of an obligation created by the Renegotiated Contract, (2) claims of failure to perform under the Renegotiated Contract, and (3) disputes over the nature, but not the validity, of the obligations created by, or the meaning of any terms used in, the Renegotiated Contract. The release in this Paragraph 4.1 applies only to matters based on, or arising out of, in whole or in part, the generation, Wholesale Marketing or Sales, purchase, ownership and/or transmission of electricity or energy goods and services pursuant to the Original Contract and the Renegotiated Contract, and does not include matters of general applicability including, without limitation, environmental, permitting, health, safety and taxation.

The Parties hereby stipulate and agree that this Settlement Agreement and the Renegotiated Contract were entered into as a result of arms'-length negotiations between the Parties. Further, the Parties believe that the rates, terms and conditions of the Renegotiated Contract are Just and Reasonable, and that the rates, terms and conditions of the Renegotiated Contract will remain so over the life of the Renegotiated Contract. The California State Releasing Parties waive all rights to challenge the validity of the Renegotiated Contract or whether it is Just and Reasonable for and with respect to the entire term thereof, including any rights under Sections 205 and 206 of the Federal Power Act to unilaterally request the FERC to revise the terms and conditions and the rates or services specified in the Renegotiated Contract, and hereby agree to make no unilateral filings at the FERC or with any other state or federal agency, board, court or tribunal challenging the rates, terms and conditions of the Renegotiated Contract as to whether they are Just and Reasonable or in the public interest. It is further agreed that, in the event of any future challenges to the Renegotiated Contract for any other reason, the Parties will not dispute the applicability, as to the Parties, of the public interest standard as that term has been defined and interpreted under the Federal Power Act and the cases of United Gas Pipe Line Co. v. Mobile Gas Corp., 350 U.S. 332 (1956), and FPC v. Sierra Pacific Power Co., 350 U.S. 348 (1956), and subsequent cases.

The California State Releasing Parties and the Morgan Stanley Parties acknowledge and agree that the Renegotiated Contract (but not any novation by means of a Replacement Agreement as defined in the Renegotiated Contract), is a "Priority Long Term Power Contract" under the Rate Agreement.

4.2. Original Contract and FERC

The CEOB and CPUC hereby agree to withdraw with prejudice, by means of filing a Notice of Partial Withdrawal, pursuant to 18 C.F.R. § 385.216(a), as to MSCG only, all actions or complaints set forth in the CPUC Complaint and the CEOB Complaint pertaining to the MSCG within five (5) business days from the Effective Date. In filing to withdraw the CPUC Complaint and the CEOB Complaint as to MSCG, the CEOB and the CPUC shall advise the FERC that resolution has been reached between themselves and MSCG concerning such actions and

complaints. The contents of each such filing shall be consistent with the terms and conditions of this Settlement Agreement.

This provision shall not restrict in any way the ability of the CEOB or the CPUC to continue to participate in the CPUC Complaint or CEOB Complaint as against the other parties named therein.

4.3. DWR, CEOB and CPUC: Refund Proceedings and FERC Show Cause Orders

Each of the DWR, CEOB, and CPUC hereby releases, acquits and discharges the Morgan Stanley Parties from any and all claims of any nature whatsoever that they have ever had, now have, or hereafter may have against MSCG based on the alleged existence or exercise of market power, and/or market manipulation prior to the Effective Date or for claims for excessive or unlawful charges for Electric Power including, without limitation, claims to receive refunds, credits, payments or compensation or consideration of any kind from the Morgan Stanley Parties related to claims that were alleged or could have been alleged in the Refund Proceedings or the FERC Show Cause Orders. Nothing in this release shall preclude the DWR, CEOB, and CPUC from otherwise continuing their participation in the Refund Proceedings, the FERC Show Cause Orders or the FERC Investigation of Price Manipulation in Western Markets to the ultimate conclusion of those proceedings as to parties other than MSCG, including any actions on appeal, nor does anything herein release such claims or entitlement of any other parties, such as the IOUs, to refunds in the Refund Proceedings or the FERC Show Cause Orders.

Each of DWR, CEOB, and CPUC hereby releases, acquits and discharges the Morgan Stanley Parties from claims, including for refunds arising from acts or omissions prior to the Effective Date related to the operation and management of generation facilities, and the generation, dispatch, purchase, Wholesale Marketing or Sales, or transmission of Electric Power.

The releases set forth in this Paragraph 4.3 shall not restrict the ability of the DWR, CEOB, and CPUC to continue to participate in any existing proceeding, or to bring or participate in any future proceeding that does not include specific claims against MSCG, but which could indirectly affect the MSCG, such as, but not limited to, proceedings concerning market structure, scheduling rules, generally applicable market rules, and generally applicable price mitigation. provided, however, this Settlement Agreement does release all claims by DWR, CEOB and CPUC for monetary damages or compensation of any kind based on the participation of the Morgan Stanley Parties in the California Electric Power markets prior to the Effective Date.

The releases in this Paragraph 4.3 apply only to matters based on, or arising out of, in whole or in part, the generation, Wholesale Marketing or Sales, purchase, ownership, or dispatch and/or transmission of Electric Power, and do not include matters of general applicability including, without limitation, environmental, permitting, health, safety and taxation. This Paragraph 4.3 does not affect any of the Parties' rights and obligations in pending proceedings pertaining to market-based rate authority; provided, however, that it is not the intent that the maintenance of such rights and obligations prevent or preclude performance by MSCG of the Renegotiated Contracts.

While the CPUC, CEOB and DWR are releasing their claims as described in this paragraph 4.3 for monetary damages or compensation of any kind against MSCG, this paragraph 4.3 does not restrict the ability of the CPUC, CEOB and DWR to continue their investigation of generator operation and maintenance, or from collecting information or investigating any matter for the purposes of making policy and/or legal arguments for rule changes, market reform, market mitigation, or related matters, or from making such policy arguments in any forum, based on information resulting from such investigation.

4.4. The AG Release

The AG hereby releases, acquits and forever discharges any and all claims of any nature whatsoever that he ever had, now has, or hereafter can, shall, or may have against the Morgan Stanley Parties based on or arising out of: (1) the AG 206 Complaint; (2) the AG Subpoena and AG Investigation; (3) the AG Unfair Competition Complaint; (4) the FERC Show Cause Orders; (5) the operation and management of any generation facilities or any sales or purchases of Electric Power made by MSCG prior to the Effective Date pursuant to the market based rate authority granted by the FERC, and any claimed overcharges in connection therewith; (6) any violations or claimed violations of the Federal Power Act and/or any rules, regulations, tariffs or orders related to the Original Contracts that occurred prior to the Effective Date; and (7) any other acts or omissions by or of the MSCG related to the operation and management of generation facilities or the generation, purchase, Wholesale Marketing or Sales, or transmission of Electric Power prior to the Effective Date, including but not limited to: (a) requests for refunds, for contract reformation, or for any other relief in any proceeding before the FERC; (b) claims under California Business & Professional Code § 17200; and (c) any federal or state antitrust claims; provided, however, this release applies only to matters related to the operation and management of generation facilities, and the generation, purchase, Wholesale Marketing or Sales, or transmission of Electric Power and/or other utility or energy goods and services and does not include matters of general applicability, including, without limitation, environmental, permitting, health, safety and taxation.

This release does not constitute a waiver or release of any claims by the AG for any actions of or omissions by any of MSCG both before or subsequent to the Effective Date which are: (a) willfully fraudulent; provided, however, that this release does extend to such claims (if any) that are based solely upon acts or omissions of MSCG that, (1) occurred prior to the Effective Date, and (2) are currently known by the AG's office by virtue of the AG Investigation or otherwise; or (b) criminal. This paragraph shall not restrict the ability of the AG to continue to participate in any existing proceeding, or to bring or participate in any future proceeding that does not include specific claims against MSCG but could indirectly affect MSCG.

The AG shall terminate, rescind, and recall all outstanding investigations of (formal or informal), or actions against, MSCG, and all subpoenas, data and document requests, and similar inquiries to MSCG within the scope of the claims released in this paragraph.

The AG shall not pursue any refund from, or other relief specific to, MSCG with respect to the AG 206 Complaint or on remand to FERC.

The AG further agrees that he will not file any actions based on any legal theory, including without limitation Business and Professions Code §17200, against MSCG with respect to violations or claimed violations of CAISO tariffs or other unlawful or allegedly unlawful conduct resulting from compliance by MSCG, or any of them, with the terms and conditions of the Renegotiated Contracts.

MSCG agrees to continue to cooperate with the AG in his civil investigation of the electricity markets in California. It is anticipated that the AG may seek to interview certain employees of MSCG and request documentation on an informal basis relevant to that investigation. Both MSCG and the AG agree to act in good faith, so that an undue burden is not placed on either party and the need for information from MSCG is satisfied as soon as practical.

4.5. MSCG Release

MSCG hereby releases, acquits and forever discharges any and all claims of any nature whatsoever that it ever had, now has, or hereafter can, shall, or may have against the California State Releasing Parties based on, or arising out of, in whole or in part, the claims described in Paragraphs 4.1, 4.2, 4.3, and 4.4. Nothing in this release shall preclude the MSCG from otherwise continuing its participation in the Refund Proceedings, the FERC Show Cause Orders or the FERC Investigation of Price Manipulation in Western Markets to the ultimate conclusion of those proceedings, including any actions on appeal as to parties other than the California Releasing Parties.

This release does not constitute a waiver by the Morgan Stanley Parties of the right to pursue remedies under the Renegotiated Contract for acts and omissions from and after the Effective Date as provided therein, including but not limited to: (1) claims of breach of an obligation created by the Renegotiated Contract, (2) claims of failure to perform under the Renegotiated Contract, and (3) disputes over the nature, but not the validity, of the obligations created by, or the meaning of any terms used in, the Renegotiated Contract. The release in this Section 4.1 applies only to matters based on, or arising out of, in whole or in part, the generation, Wholesale Marketing or Sale, purchase, ownership and/or transmission of electricity or energy goods and services pursuant to the Original Contract and the Renegotiated Contract, and does not include matters of general applicability including, without limitation, environmental, permitting, health, safety and taxation.

4.6. Notwithstanding anything herein to the contrary, nothing in Paragraphs 4.1 through 4.13 shall constitute a limitation to, or waiver of, any right of any Party hereto to enforce any obligation or pursue any remedy provided under this Settlement Agreement, the Renegotiated Contract, the 2003 Buy-Back Transaction, and the Gas Contract (including the enforcement of the releases provided by the Parties hereunder).

4.7. As of the Effective Date, the California State Releasing Parties and MSCG each expressly waives the benefits of any statutory provision or common law rule that provides, in sum or substance, that a release does not extend to claims which the party does not know or suspect to exist in its favor at the time of executing the release, which if known by it, would have materially affected its settlement with the other party. In particular, but without limitation, each of the

California State Releasing Parties and MSCG expressly waive the provisions of California Civil Code section 1542, which statute reads:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Each of the California State Releasing Parties and MSCG may hereafter discover facts other than or different from those that it knows or believes to be true with respect to the claims released pursuant to the provisions of this Settlement Agreement, but each of the California State Releasing Parties and MSCG hereby expressly waives and fully, finally and forever settles and releases any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or noncontingent claim with respect to the Released Claims, and without regard to the subsequent discovery or existence of such different or additional facts, except, with respect to the AG, criminal claims, and with respect to the AG and CPUC, claims of willful fraud.

4.8. The California State Releasing Parties and MSCG each expressly represents and warrants that it has not sold, assigned, transferred, or encumbered, or otherwise disposed of, in whole or in part, voluntarily or involuntarily, any claim released pursuant to this Settlement Agreement.

4.9. This Settlement Agreement may be pleaded as a full and complete defense to any claim that may be instituted, prosecuted or attempted in breach of this Settlement Agreement. The Parties further agree that their respective duties and obligations hereunder may be specifically enforced through an action seeking equitable relief or a petition for writ of mandamus by the Party or Parties for whose benefit such duty or obligation is to be performed, but no breach of any duty or obligation by any Party hereunder shall entitle any other Party to rescind or terminate this Settlement Agreement or the Renegotiated Contract. In any such action, and in any action to enforce the provisions of the Settlement Agreement, the prevailing Party shall recover its reasonable attorneys' fees and costs.

4.10. The California State Releasing Parties and MSCG expressly understand that both direct and indirect breaches of the provisions of this Settlement Agreement are proscribed. Therefore, the California State Releasing Parties and MSCG covenant that each will not institute or prosecute, against the other, any action or other proceeding based in whole or in part upon any claims released by this Settlement Agreement; provided, however, the Parties expressly acknowledge that the CPUC Complaint, CEOB Complaint, the Refund Proceedings, the FERC Show Cause Orders, and the FERC Investigation of Price Manipulation in Western Markets are continuing with respect to entities other than MSCG and this Settlement Agreement is not intended to impair in any way the California State Releasing Parties' participation in those pending actions with respect to entities other than MSCG.

4.11. The Parties hereby waive and release any and all claims for attorneys' fees or costs, statutory or otherwise, related in any way to disputes pre-dating the Effective Date of this Settlement Agreement or related to the Parties' entry into this Settlement Agreement; provided,

however, MSCG agrees to pay the AG twenty-five thousand dollars (\$25,000) as reimbursement for the AG's time and expenses relating to its investigation and in completing the due diligence to execute this Settlement Agreement, provided, however, that such payment shall not be construed as an admission, finding, or evidence of any wrongdoing by, or on behalf of, any of the Morgan Stanley Parties.

4.12. The California State Releasing Parties hereby agree, represent, warrant and covenant they will not encourage or take any action not otherwise required by law to assist any individual, entity, organization, agency, department, board, subdivision, or commission not bound hereunder or a Party hereto to bring or maintain a claim in the nature of the Released Claims.

5. General Provisions.

5.1. In entering and making this Settlement Agreement, the Parties assume the risk of any mistake of fact or law, including without limitation by reason of any reversal of an administrative action that is a condition to the effectiveness of this Settlement Agreement. If the Parties, or any of them, should later discover that any fact they relied upon in entering this Settlement Agreement is not true, or that their understanding of the facts or law was incorrect, the Parties shall not be entitled to seek rescission of this Settlement Agreement by reason thereof, except in the case of willful fraud. Subject to these limitations this Settlement Agreement is intended to be final and binding upon the Parties regardless of any mistake of fact or law.

5.2. This Settlement Agreement shall be binding upon and for the benefit of any of the Parties and their successors and assigns. Nothing in this Settlement Agreement shall be construed or interpreted to impart any rights or obligations to any third party (other than a permitted successor or assignee bound to this Settlement Agreement).

5.3. Neither the provision of consideration in the form of the mutual covenants contained herein, nor the performance of any such covenants contained herein, nor anything contained or incorporated herein shall be deemed, nor shall the negotiations, execution and performance of this Settlement Agreement constitute, any admission or concession of liability or wrongdoing on the part of any Party; or any other form of admission with respect to any matter, thing or dispute whatsoever. Any such liability or wrongdoing is expressly denied.

5.4. Each Party represents and warrants to the other Parties that (1) it has the full power and authority to enter into this Settlement Agreement and to perform all transactions, duties and obligations herein set forth, (2) it has taken all necessary actions duly and validly to authorize the execution and delivery of this Settlement Agreement and the other documents and agreements provided for herein to be executed and delivered by such Party in accordance with applicable law, (3) it has duly and validly executed and delivered this Settlement Agreement and the other documents and agreements provided for herein to be executed and delivered by such Party, and (4) this Settlement Agreement and the other documents and agreements provided for herein to be executed and delivered by such Party constitute the legal, valid and binding obligations of such Party, enforceable against such Party in accordance with their respective terms.

5.5. Each Party warrants the following: (1) it is represented by competent counsel with respect to this Settlement Agreement and all matters covered by it; (2) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Settlement Agreement; and (3) it authorizes and directs its respective attorneys to have such papers executed and to take such other action as is necessary and appropriate to effectuate the terms of this Settlement Agreement.

5.6. Each Party warrants that no promise, inducement or agreement not expressed herein has been made in connection with this Settlement Agreement. To the extent that it was deemed necessary and desirable by a Party, each such Party warrants that it has received appropriate, adequate, and competent technical and economic advice. Each Party warrants that it has not relied on any other Party for advice or guidance concerning the technical or economic implications or consequences of the Renegotiated Contract or this Settlement Agreement. This Settlement Agreement constitutes the entire agreement between the Parties and supersedes and replaces all prior negotiations or proposed agreements, written or oral, with respect to the subject matter thereof.

5.7. This Settlement Agreement may not be altered, amended, modified or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

5.8. The language of this Settlement Agreement shall be construed as a whole, according to its fair meaning and intent, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting the Settlement Agreement or any specific terms or conditions hereof. This Settlement Agreement shall be deemed to have been drafted by all Parties, and no Party shall urge otherwise.

5.9. The headings in this Settlement Agreement are for convenience only. They in no way limit, alter or affect the meaning of this Settlement Agreement.

5.10. This Settlement Agreement shall be construed and enforced pursuant to the laws of the State of California, without regard to choice of laws.

5.11. Should any provision of this Settlement Agreement be held illegal, such illegality shall not invalidate the whole of this Settlement Agreement; instead, the Parties shall use their best efforts to reform the Settlement Agreement in order to give effect to the original intention of the Parties in all material respects.

5.12. This Settlement Agreement may be executed in multiple original and/or facsimile counterparts, each of which is equally admissible in evidence and shall be deemed to be one and the same instrument. This Settlement Agreement shall not take effect until each Party has signed a counterpart.

5.13. Each signatory to this Settlement Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement as of Execution Date.

The Governor of the State of California

By: _____

Barry Goode, Secretary of Legal Affairs

Attorney for the Governor of the State of California

The California Department of Water Resources

By: _____

Name: _____

Title: _____

The California Electricity Oversight Board

By: _____

Name: _____

Title: _____

The California Public Utilities Commission

By: _____

Name: _____

Title: _____

Attorney General of the State of California

By: _____

Name: _____

Title: _____

Morgan Stanley Capital Group Inc.

By: _____

Name: _____

Title: _____

Morgan Stanley

By: _____

Name: _____

Title: _____