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January 24, 2005

**VIA MESSENGER**

Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814

Attention: Tricia Knight

Re: The Repeal of Electricity Deregulation and Blackout Prevention Act (Version 2)

Dear Ms. Knight:

Pursuant to Elections Code Section 9002, we request that the Attorney General prepare a title and summary of a measure entitled "The Repeal of Electricity Deregulation and Blackout Prevention Act" (Version 2). The text of the measure, a check for \$200.00, and the addresses at which we are registered to vote are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

Robert Finkelstein  
Michel Peter Florio  
THE UTILITY REFORM NETWORK  
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Sincerely,

Robert Finkelstein  
Executive Director

Michel Peter Florio  
Senior Attorney



(Version 2)

**Section 1.** This measure shall be known and may be cited as "The Repeal of Electricity Deregulation and Blackout Prevention Act".

**Section 2. (a)** The People of the State of California find and declare all of the following:

(1) A reliable electricity system that delivers power to all consumers at just and reasonable prices is vital to the health, safety and well-being of all Californians.

(2) Electricity is a unique good in modern society. It cannot be stored, must be delivered to the entire grid at the same time it is produced, and has no substitutes. Failure of supply for even a few seconds can lead to blackouts and disruption.

(3) The deregulation of the electricity market in California was a disastrous, ill-conceived experiment that led to rolling blackouts, supply shortages and market manipulation, resulting in billions of dollars in excessive prices being borne by California ratepayers.

(4) The financial crisis and regulatory uncertainty that were created by the deregulated market have stifled investment in needed power plants.

(5) Deregulation of electricity, including the authorization of direct transactions, creates uncertainty regarding the customer base that must be served, making it impossible to conduct the long-term integrated resource planning that is necessary for an environmentally sound and reliable electricity system, and enables cost-shifting from large customers to small.

(6) Despite the past failures of electricity deregulation, its advocates are once again urging the Legislature and the Public Utilities Commission to launch a further experiment that may inflict additional damage on ratepayers and the California economy.

(b) In enacting this measure, it is the intent of the People to achieve the following policy goals:

(1) Ensure that all customers receive reliable retail electric service at just and reasonable rates.

(2) Provide a stable customer base for planning purposes, in order to assure resource adequacy and prevent inappropriate cost shifting. To that end, no new direct transactions shall be permitted, except as provided in this measure.

(3) Ensure that all rates, terms and conditions of retail electric service are regulated by the Public Utilities Commission in a non-discriminatory manner as to all suppliers of retail electric service, and that all electricity service providers are under the jurisdiction of the Commission.

(4) Ensure that the electrical system is developed in a manner that mitigates and minimizes any adverse environmental impacts to the maximum extent reasonably practicable by, among other things, requiring that each retail seller of electricity obtain at least 20 percent of its retail sales from eligible renewable energy resources no later than December 31, 2010.

**Section 3.** Section 218.3 of the Public Utilities Code is amended, by adding at the end the following sentence:

*An electric service provider is subject to the jurisdiction, control, and regulation of the commission and the provisions of this part, pursuant to Section 394(f).*

**Section 4.** Sections 330, 365, 365.5 and 366 of the Public Utilities Code are repealed, and a new Section 366 is enacted, to read as follows:

*366. (a) No new direct transactions for retail electric service may be entered into after the effective date of this act, except by those customers of an electrical corporation who were being served via a direct transaction on January 1, 2005.*

*(b) A customer who was being served via a direct transaction on January 1, 2005, may return to service by an electrical corporation upon one year's notice to the electrical corporation, and thereafter may not enter into a new direct transaction. If a customer returns to service by an electrical corporation prior to the expiration of the one year notice period, that customer shall pay a generation rate that is equal to the higher of the electrical corporation's bundled generation portfolio price or the current short-term market price until the one year notice period has elapsed.*

*(c) A customer that was being served via a direct transaction on January 1, 2005, may take temporary default service from an electrical corporation, at a generation rate that is equal to the higher of the electrical corporation's bundled generation portfolio price or the current short-term market price, for a period of no longer than 120 days. If the customer does not enter into a new direct transaction by the end of the 120 day period, that customer may not thereafter enter into a new direct transaction, and shall continue to be served by the electrical corporation at the default service rate for a period of one year, at which point the customer will be charged the bundled generation portfolio price.*

*(d) Any customer that the commission has determined, in its Decision 02-11-022, is responsible to pay a cost recovery surcharge as a condition of having purchased electricity via a direct transaction shall continue to pay the cost recovery surcharge until full collection is achieved.*

*(e) Nothing in this section alters the provisions of Sections 366.1 and 366.2, relating to community choice aggregation.*

**Section 5.** Section 394(f) of the Public Utilities Code is repealed and replaced with the following language:

*(f) Registration with the commission is an exercise of the licensing function of the commission, and registration by an electric service provider constitutes agreement of the electric service provider to the jurisdiction, control and regulation of its rates and terms and conditions of service by the commission. The commission shall exercise such jurisdiction, control and regulation of electric service providers in their provision of electrical service in the same manner as its exercise of jurisdiction, control and regulation of electrical corporations, including, but not limited to, enforcement of: energy procurement and contracting standards and requirements; resource adequacy requirements; energy efficiency and demand response requirements; renewable portfolio standards; and appropriate assignment of costs among customers to prevent cost shifting.*

**Section 6.** Section 399.15(b)(1) of the Public Utilities Code is repealed and replaced with the following language:

*(1) Beginning on January 1, 2003, each retail seller shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010.*

**Section 7.** Chapter 2.4 is added to the Public Utilities Code, to read as follows:

**400.** This chapter shall be known, and may be cited, as the Reliable Electric Service Act.

**400.1.** The commission and the legislature shall do all of the following:

(a) Restore and affirm the electric utility's obligation to serve all of its customers reliably and at just and reasonable rates.

(b) Eliminate opportunities for market manipulation and assure the best value for consumers by authorizing cost-based construction and operation of new electric plants as well as competitive utility wholesale electricity procurement.

(c) Protect consumers, the environment, and the reliability of the electricity system by establishing a comprehensive long-term integrated resource planning process, under regulation, in order to ensure resource adequacy and reasonably priced electricity. Such a

process shall include, as a first priority, funding of all cost-effective energy efficiency and conservation programs, and increasing the proportion of electricity provided from cost-effective renewable resources.

(d) Establish and enforce resource adequacy requirements to ensure that adequate physical generating capacity dedicated to serving all load requirements is available to meet peak demand and planning and operating reserves, at such locations and at such times as may be necessary to ensure local area reliability and system reliability, at just and reasonable rates. Resource adequacy requirements shall apply in a nondiscriminatory manner to all load serving entities.

(e) Advance and promote opportunities for consumers to use innovative new technologies, such as distributed generation, consistent with grid reliability and environmental protection and improvement, provided that residential and small commercial customers with average usage of less than 1,000 kilowatt-hours per month and occupying a building that was constructed prior to January 1, 2006, shall not be required to take service under a time-differentiated rate schedule without their affirmative written consent.

**400.2.** (a) An electrical corporation has an obligation to plan for and provide its customers with reliable electric service at just and reasonable rates, pursuant to Section 451, including those customers who purchase standby service from the electrical corporation.

(b) For purposes of this chapter, "electric service" includes providing adequate and efficient resources, including utility-owned and procured generation resources, such as new and repowered generation resources, cogeneration, and renewable generation resources, transmission and distribution resources, metering and billing, funding for cost-effective energy efficiency and other demand reduction resources, and employing an adequately sized, well-trained utility workforce, including contracting for maintenance of generation facilities.

**400.3** (a) The Public Utilities Commission shall establish a process of resource selection and procurement that achieves the best value for ratepayers as its primary goal.

(b) The commission shall ensure that each electrical corporation achieves the best value for its ratepayers by maintaining a diversified portfolio of non-utility generation under contract with the utility and utility-owned generation, consistent with the electrical corporation's approved long-term integrated resource plan, taking into account price, reliability, stability, efficiency, cost-effectiveness, system impacts, resource diversity, financial integrity of the utility, risk, and environmental performance.

(c) The resource selection process may achieve the best value for ratepayers, as described in subdivisions (a) and (b), by utilizing the following approaches to compare the benefits and costs of alternative resource options:

- (1) competitive solicitations for non-utility generation
- (2) bilateral contracts for non-utility generation
- (3) cost-based utility-owned generation that is regulated by the commission.

(d) For purposes of this act, “non-utility generation” means facilities for the generation of electricity owned and operated by an entity other than an electrical corporation; and “load serving entity” does not include a local publicly owned electric utility as defined in Section 9604, the State Water Resources Development System commonly known as the State Water Project, or customer self-generation.

**400.4. (a)** The commission, in consultation with the Independent System Operator, shall establish resource adequacy requirements to ensure that adequate physical generating capacity dedicated to serving all load requirements is available to meet peak demand and planning and operating reserves, at or deliverable to such locations and at such times as may be necessary to ensure local area reliability and system reliability at just and reasonable rates.

(b) The commission shall implement and enforce these resource adequacy requirements in a nondiscriminatory manner on all load serving entities.

(c) Resource adequacy requirements established by the commission shall provide for and assure all of the following:

- (1) System wide and local area grid reliability.
- (2) Adequate physical generating capacity dedicated to serve all load requirements, including planning and operating reserves, where and when it is needed.
- (3) Adequate and timely investment in new generating capacity to meet future load requirements, including planning and operating reserves.
- (4) Market power mitigation.
- (5) Deliverability.
- (6) Resource commitments by load serving entities at least three years in advance of need, in order to assure that new resources can be constructed if necessary to meet the need.

(d) Pursuant to its authority to revoke or suspend registration pursuant to Section 394.25, the commission shall suspend the registration for a specified period, or revoke the registration, of an electric service provider that fails to comply with the rules and regulations adopted by the commission to enforce resource adequacy requirements.

**Section 8.** The Legislature may amend this act only to achieve its purposes and intent, by legislation receiving at least a two-thirds vote of each house and signature by the Governor.

**Section 9.** The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.