

1 feasibility of the Plan or the viability of the new entities the
2 Debtor proposes to create.

3 In further support of its objection, the ISO respectfully
4 represents as follows:

5 As a general proposition, the primary purpose of a
6 disclosure statement is to "give creditors the 'adequate
7 information' necessary for them to decide whether to accept a
8 proposed plan." In re Monroe Well Service, Inc., 80 B.R. 324,
9 330 (Bankr. E.D. Pa. 1987); In re Monnier Bros., 755 F.2d 1336
10 (8th Cir. 1985); In re Stanley Hotel, Inc., 13 B.R. 926 (Bankr.
11 D. Colo. 1981). Sufficient financial and other information must
12 be provided by a plan proponent so that a creditor (likened to a
13 "hypothetical reasonable investor") can make an "informed
14 judgment" whether to accept or reject the plan. In re Jeppson,
15 66 B.R. 269 (Bankr. D. Utah 1986); In re Civitella, 15 B.R. 206
16 (Bankr. E.D. Pa. 1981); In re Northwest Recreational Activities,
17 Inc., 8 B.R. 10 (Bankr. N.D. Ga. 1980). The determination as to
18 what constitutes adequate information for purposes of Section
19 1125 of the Bankruptcy Code in any given instance must be
20 determined by the Court on a case-by-case basis under the facts
21 and circumstances presented. In re Scioto Valley Mortg. Co., 88
22 B.R. 168, 170 (Bankr. S.D. Ohio 1988). Generally, the
23 disclosure statement should set forth "all those factors
24 presently known to the plan proponent that bear upon the success
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1 or failure of the proposals contained in the plan." In re
2 Stanley Hotel, Inc., supra, 13 B.R. at 929.

3 Numerous cases have identified a list of the type of
4 information which typically should be included in a disclosure
5 statement. In re Metrocraft Publishing Servs., Inc., 39 B.R.
6 567 (Bankr. N.D. Ga. 1984); In re Cardinal Congregate I, 121
7 B.R. 760 (Bankr. S.D. Ohio 1990); In re Dakota Rail, Inc., 104
8 B.R. 138 (Bankr. D. Minn. 1989); In re Malek, 35 B.R. 443
9 (Bankr. E.D. Mich. 1983); In re Scioto Valley Mortg. Co., supra;
10 In re Reilly, 71 B.R. 132 (Bankr. D. Mont. 1987); In re A.C.
11 Williams Co., 25 B.R. 173 (Bankr. N.D. Ohio 1982); In re Adana
12 Mortg. Bankers, Inc., 14 B.R. 29 (Bankr. N.D. Ga. 1981).
13 Relevant information presented in a disclosure statement has
14 been held include financial information, data, valuations or
15 projections relevant to the creditors' decision to accept or
16 reject the Chapter 11 plan, information relevant to the risks
17 posed to creditors under the plan, and the relationship between
18 the debtor and any affiliates. In re Metrocraft Publishing
19 Servs., Inc., supra, 39 B.R. at 568.
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23 In this case, the Disclosure Statement, Section VI.B.,
24 describes the "spin off" of the assets associated with the
25 Debtor's electric transmission business into an entity referred
26 to as ETrans. The Debtor acknowledges its current status as a
27 "participating transmission owner" in the ISO, and the
28 Disclosure Statement provides that "the Debtor will assume and

1 assign to ETrans certain of its contractual obligations
2 associated with its participation as a transmission owner in the
3 ISO." Disclosure Statement, p. 71 (emphasis added). The
4 Disclosure Statement, however, nowhere elaborates upon what
5 contractual "obligations" with the ISO and other market
6 participants will be assumed and assigned to ETrans, what
7 contracts will be assumed and assigned to the other proposed
8 spin-off companies under the Plan and what contractual
9 obligations will be rejected. Without this specificity, the
10 Plan offers nothing upon which the ISO (or any creditor) can
11 assess whether such an assumption and assignment would be
12 permissible under applicable law and whether ETrans will be able
13 to demonstrate adequate assurance of future performance as
14 otherwise required under Section 365 of the Bankruptcy Code.

15 The Disclosure Statement likewise fails to address the
16 consequences should the Debtor decline to transfer, or be
17 incapable of transferring, its contract rights and assets with
18 respect to its electric transmission business. The potential
19 consequences to creditors and the public could be substantial
20 and could impact the provision of reliable electric service to
21 the Debtor's service area.

22 In addition, the Disclosure Statement fails to discuss
23 Debtor's intention to continue participation in the ISO prior to
24 formation of an RTO. Such information is necessary for the ISO
25 to plan to meet anticipated service needs and coordinate the

1 provision of electric transmission service in the Debtor's
2 service area and throughout California. Further, a large scale
3 coordination effort would be required to address the highly
4 complex technical and operational "seams" issues should Debtor
5 seek to end participation in the ISO.

6 The notes to the financial projections accompanying the
7 Disclosure Statement provide that ETrans "will not procure
8 electricity or ancillary services, except to the extent already
9 required under existing transmission contracts to be assumed by
10 ETrans and to meet any obligations under an ISO or RTO. ETrans'
11 transmission network capacity will be controlled by the
12 ISO/RTO." Disclosure Statement, Exhibit "C," p. 11. This
13 statement suggests that the financial projections included with
14 the Disclosure Statement are premised exclusively upon a
15 continuation of the existing relationship between ETrans (as
16 potential successor to the Debtor) and the ISO. Given the
17 representations contained elsewhere in the Disclosure Statement,
18 the financial projections supplied by the Debtor should include
19 information reflecting the anticipated impact upon the
20 reorganized Debtor should the Debtor be unable to assume and
21 assign contracts with the ISO to ETrans, or should the Debtor
22 elect to reject existing contracts with the ISO. Absent this
23 information, given the Debtor's inability or failure to state
24 with any certainty what its intentions are with respect to the
25 ISO and its contractual obligations with the ISO, the Disclosure

1 Statement provides a skewed and misleading picture of the
2 feasibility of the Plan and the prospects for the Debtor's
3 reorganization.

4 The ISO requests that the Debtor be required to address the
5 matters raised herein notwithstanding a meeting that occurred on
6 November 19, 2001 between Debtor and the ISO. The purpose of
7 the meeting was to discuss the Plan and the regulatory filings
8 to be made by Debtor to implement the Plan. At that meeting,
9 Debtor made oral representations that: it would assume all of
10 its contracts with the ISO and other market participants and
11 assign them either to Etrans, Genco, or Disco; and it intends to
12 continue its participation in the ISO. Since these
13 representations have been made, but not clearly articulated in
14 the Disclosure Statement, the Disclosure Statement should be
15 modified for the reasons discussed above.

16 WHEREFORE, the ISO respectfully requests that the Court
17 enter an order (i) disapproving the Disclosure Statement in its
18 current form; (ii) in the alternative, requiring the Debtor and
19 the other plan proponent to modify the Disclosure Statement and
20 continuing the hearing on the Disclosure Statement to allow
21 parties an opportunity to review any revised Disclosure
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1 Statement submitted; and (iii) granting such other and further
2 relief as is just and proper under the circumstances.

3 Dated: November 27, 2001

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