

Senate Resolution No. 14

Introduced by Senators Dunn and Morrow

Relative to legislative depositions

Resolved by the Senate of the State of California, That the Select Committee to Investigate Price Manipulation of the Wholesale Energy Market may authorize the taking of a deposition by any member or staff of the select committee or by the Legislative Counsel or any counsel retained by the Legislative Counsel, pursuant to a subpoena approved by the Committee on Rules. Any deposition taken by the select committee shall be conducted according to the following procedures:

1. A subpoena for the taking of a deposition shall be authorized and issued by the chairperson of the select committee. The subpoena shall specify a time and place for examination, the name of the person who will take the deposition, and any records that the deponent is required to produce for the deposition. If the deponent is not a natural person, the subpoena shall describe with reasonable particularity the matters on which examination is requested, and shall direct the deponent to designate and produce at the deposition those of its officers, directors, managing agents, employees, or agents who are most qualified to testify on its behalf as to those matters.

2. A deposition may be taken by one or more members or staff of the select committee, the Legislative Counsel or any counsel retained by the Legislative Counsel, or any combination thereof. Absent special permission or instructions from the chairperson of the select committee, no one may be present in a deposition except members of the select committee, staff of the select committee designated by the chairperson, the person taking the deposition, an official reporter, and the deponent and his or her counsel. Observers or counsel for other persons or agencies under investigation may not attend. Unless otherwise directed by the select committee, deposition transcripts shall not be available to the public until received by the select committee. Once received by the select committee, use of deposition transcripts shall be governed by the rules of the select committee. Unless otherwise directed by the select committee, deposition transcripts shall be available for use by the members of the select committee in open session. However, information in any deposition transcript covered by a confidentiality agreement may



not be used in open session except as permitted by the select committee in accordance with the agreement.

3. A deponent may be accompanied at a deposition by counsel to advise him or her of his or her rights. However, in the case of any deponent who is an officer or employee of the government, or a corporation or association, the chairperson of the select committee may rule that representation by counsel from the government, corporation, or association, or by counsel representing other deponents, creates a conflict of interest, and that the deponent shall be represented by personal counsel not from the government, corporation, or association or representing other deponents. However, the government, corporation, or association may pay for the compensation and expenses of the personal counsel.

4. A deponent shall be examined upon oath administered by the chairperson or a member of the select committee or an individual otherwise authorized by law to administer oaths. Questions shall be propounded orally by the person taking the deposition. Objections by a deponent as to the form of a question shall be noted for the record. If a deponent objects to a question and then refuses to testify on the basis of relevance or privilege, the person taking the deposition may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the chairperson of the select committee or a committee member designated by him or her. If the chairperson or designated member overrules the objection, he or she may refer the matter to the select committee or he or she may order and direct the deponent to answer the question. The select committee may make a report pursuant to Section 9407 of the Government Code if a deponent fails to appear at the deposition or refuses to testify after having been ordered and directed to answer a question.

5. The deposition testimony shall be transcribed or electronically recorded. If it is transcribed, the deponent shall be furnished with a copy, or access to a copy, for review. No later than five days thereafter, if a copy is provided, the deponent shall return it with his or her signature, and the staff of the select committee may enter the changes, if any, requested by the deponent. If the deponent fails to return a signed copy, the staff shall note on the transcript the date a copy was provided and the fact that the deponent failed to return it. The individual administering the oath shall certify on the transcript that the deponent was duly sworn in his or her presence. The transcriber shall certify that the transcript is a true record of the testimony. The transcript shall then be filed with the secretary of the select committee. The chairperson of the select committee may stipulate with the deponent to changes in the procedure set forth in this



paragraph. Objection to any error in this procedure that might be cured if promptly presented is waived unless timely objection is made.

6. The person or persons taking a deposition may inspect locations, records, or systems of records on behalf of the committee.

Senate Resolution No. 14 read and adopted by the Senate July 19, 2001.

Attest: _____
Secretary of the Senate

