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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

**CALIFORNIA DEPARTMENT OF WATER
RESOURCES,**

Plaintiff,

v.

**POWEREX CORP., a Canadian Corporation,
dba POWEREX ENERGY CORP., and DOES 1-
100,**

Defendant.

Case No.

**COMPLAINT FOR RECISSION,
RESTITUTION, DAMAGES,
DECLARATORY RELIEF, AND
OTHER EQUITABLE AND
ANCILLARY RELIEF**

[Exempt from Filing Fees Pursuant to
Government Code § 6103]

1 Plaintiff CALIFORNIA DEPARTMENT OF WATER RESOURCES alleges as
2 follows:

3 **NATURE OF ACTION**

4 1. During the California Energy Crisis of 2000-2001, “the California Energy market
5 was subjected to artificial manipulation on a massive scale.” (*Calif. ex rel. Lockyer v. FERC* (9th
6 Cir. 2004) 383 F.3d 1006, 1015-1016.) As a result of this manipulation, California faced an
7 unexpected and severe energy shortage in 2000 and 2001.

8 2. Due to the state of emergency created by the California Energy Crisis of 2000-
9 2001, the State of California, through the CALIFORNIA DEPARTMENT OF WATER
10 RESOURCES (“DWR” or Plaintiff), was compelled to enter into numerous energy transactions
11 with POWEREX CORP. (“POWEREX” or Defendant). The transactions between DWR and
12 POWEREX were in all instances made on a real-time basis, with the energy needed to satisfy
13 demand for electricity within less than an hour from when the transactions were finalized. During
14 this crisis, DWR had no reasonable alternative but to transact with POWEREX to procure needed
15 real-time energy for California. Through duress and undue influence, POWEREX took an
16 oppressive and unfair advantage of the distress created by the California Energy Crisis and the
17 necessities which compelled DWR to procure sufficient energy to avoid blackouts. As a result of
18 POWEREX’s exercise of duress and undue influence at the time the transactions with DWR were
19 made, DWR’s agreements to the terms of the transactions with Powerex were not real, mutual, or
20 free. Moreover, the transactions are contrary to the public policy and public interest of the State
21 of California.

22 3. California Civil Code section 1575 provides that undue influence includes taking a
23 grossly oppressive and unfair advantage of another’s necessities or distress. Duress includes
24 whatever destroys a person’s free agency and constrains that person to do something against his
25 or her will. California Civil Code section 1689(b)(6) provides that “[a] party to a contract may
26 rescind the contract . . . [i]f the public interest will be prejudiced by permitting the contract to
27 stand.”

28 4. DWR seeks rescission of all of the transactions, restitution, and consequential

1 damages. DWR further seeks a declaration that all of the transactions with POWEREX which are
2 the subject of this suit are void and of no force and effect and that POWEREX has been unjustly
3 enriched.

4 **PARTIES**

5 5. Plaintiff CALIFORNIA DEPARTMENT OF WATER RESOURCES is, and at all
6 relevant times alleged in this Complaint was, an agency of the State of California with its principal
7 offices in Sacramento, California.

8 6. Defendant POWEREX CORP. is a Canadian corporation headquartered in
9 Vancouver, British Columbia, Canada. POWEREX is the wholly-owned power marketing
10 subsidiary of BC Hydro, Canada's third largest electric utility. At all relevant times alleged in this
11 Complaint, POWEREX was and is a marketer of wholesale energy products and services and was
12 and is engaged in energy merchant and commodity market businesses and trading activities in
13 western Canada and the western United States, including California.

14 7. The true names and capacities of defendants sued in this Complaint under fictitious
15 names of DOES 1 through 100, inclusive, are unknown to Plaintiff, who sues such defendants by
16 such fictitious names. Plaintiff is informed and believes, and on that basis alleges, that each of the
17 fictitiously-named defendants engaged in or is otherwise responsible in some manner for the acts,
18 omissions, misrepresentations, use or misuse of information or other occurrences alleged herein.
19 Plaintiff will amend its Complaint to state the true names of those fictitiously named defendants as
20 and when they become known to Plaintiff.

21 8. Unless otherwise alleged, whenever reference is made in this Complaint to any act
22 of defendants, such allegation shall mean that each defendant acted individually and jointly with
23 the other defendants named in the Complaint.

24 9. Unless otherwise alleged, whenever reference is made in this Complaint to any act
25 of POWEREX or any corporate or other business defendant, such allegation shall mean that
26 POWEREX or such corporation or other business did the acts alleged in this Complaint through
27 its officers, directors, employees, agents and/or representatives who were acting within the actual
28 or ostensible scope of their authority.

10. At all relevant times alleged in this Complaint, each of the defendants has acted as an agent, representative, or employee of each of the other defendants and has acted within the course and scope of their actual or ostensible authority.

JURISDICTION

11. This Court has jurisdiction to hear the claims alleged in this Complaint and is a court of competent jurisdiction to grant the relief requested.

12. This Court has jurisdiction over Defendant POWEREX because POWEREX is a Canadian corporation registered with the California Secretary of State to conduct business in California and did conduct business in California by engaging in numerous energy transactions with DWR, including the offer and sale of electricity in the State of California and/or the control area of the California Independent System Operator (“ISO”)^{1/}, and because POWEREX otherwise has sufficient minimum contacts in California, to render the exercise of jurisdiction over it by this Court consistent with traditional notions of fair play and substantial justice.

VENUE

13. Venue is proper in this Court because the causes of action arise in the County of Sacramento where the transactions between the parties occurred.

FACTS

A. Deregulation of California’s Electric Generation Market

14. Prior to restructuring of the electricity industry in California, the State’s major investor-owned utilities (“IOUs”), namely Pacific Gas & Electric Company (“PG&E”), Southern California Edison (“SCE”), and San Diego Gas & Electric Company (“SDG&E”), provided bundled services for electricity, including generation, transmission, and distribution, to the majority of retail customers in the state. In September 1996, the California Legislature enacted Assembly Bill 1890 (“AB 1890”), with the goal of introducing competition through deregulation in the generation and sale of electricity, at both the wholesale and retail levels.

1. The California Independent System Operator (“ISO”) is a not-for-profit corporation established through California legislation for the deregulation of the energy markets. The ISO is responsible for operating the high-voltage transmission grid serving most of California. The area encompassing this transmission grid is known as the ISO control area.

1 15. AB 1890 also established two new institutions to manage important aspects of the
2 wholesale power market: the California Power Exchange (“PX”) and the California Independent
3 System Operator (“ISO”).

4 16. The PX was established to operate two auction-style markets for the purchase and
5 sale of electricity for delivery during the same or next day. These were the “day-ahead” and “day-
6 of” markets. The intent of the deregulation plan was that 95 percent of the power needed to
7 serve customers in the ISO control area would be sold and purchased through the PX markets.

8 17. The ISO was established to operate the high-voltage transmission grid serving
9 most of the state and is responsible for all real-time operations, such as continuously balancing
10 generation and load and managing congestion on the transmission system it controls. The ISO
11 also administers a variety of auction markets for the purpose of procuring the electricity necessary
12 to operate the transmission system reliably. These markets included an energy market to procure
13 the power needed to continuously match the amount of power being supplied to the grid with the
14 amount of energy being demanded by customers on a real-time basis. This market is known as
15 the “real-time” energy market or the “imbalance” energy market.

16 18. Neither the ISO nor the PX purchased or sold energy for their own accounts or
17 benefit. Rather, they served as “market-makers” or clearinghouses to facilitate the sale and
18 purchase of wholesale power by market participants such as POWEREX. In markets
19 administered by the PX and ISO, sellers submitted bids specifying the amount of electricity and/or
20 capacity they wished to sell and the price at which they were offering to sell. The auction
21 operator ranked all bids in merit order (i.e., from lowest to highest price), and then selected all of
22 the bids it needed in order to meet the demand for energy in a given time interval. The bid
23 submitted by the highest priced unit selected set a single “market-clearing price” that all buyers
24 paid, and all sellers received. At all relevant times alleged in this Complaint, all of the ISO and
25 PX-operated markets were subject to price caps.

26 19. In order to maintain balance on the transmission grid, the ISO would dispatch
27 power from sellers that submitted successful bids in the imbalance energy market. If there were
28 insufficient bids in the ISO imbalance energy market to meet customer demand in real-time, the

ISO, as a last resort, would purchase energy “out-of-market” in order to procure the resources necessary to operate the system reliably.

20. An out-of-market, or “OOM”, purchase refers to a purchase of energy that was not bid into the energy markets or was bid at a price above the price cap. At all relevant times alleged in this Complaint, out-of-market purchases to procure energy for real-time needs were not subject to price caps.

B. The Breakdown of the Market, Skyrocketing Electricity Prices, and Rolling Blackouts

21. In May 2000, the price of wholesale power began to quickly rise to historically unprecedented levels in California. Moreover, the volume of energy bid into the PX and ISO markets diminished drastically, resulting in an insufficient supply of energy to satisfy demand. The crisis that ensued wreaked havoc in California well through the summer and fall of 2000 and did not subside until the fall of 2001. The 2000-2001 period of unprecedented energy prices and energy shortages is now commonly referred to as the California Energy Crisis.

22. The Energy Crisis posed a serious threat to the safety and reliability of the high voltage transmission grid serving the State, which was subjected to extended periods of ISO-declared system emergencies in which operating reserves fell below system requirements. The ISO declared numerous Stage 3 system emergencies (the highest level of system emergency) because actual or anticipated operating reserves were less than or equal to one and a half percent (1½%) of projected peak demand. For the first time ever in California history, businesses and residents in the State were subjected to rolling blackouts.

23. During the California Energy Crisis, buyers of wholesale power incurred massive losses. The two largest IOUs, SCE and PG&E, incurred enormous debts and, as a result, defaulted on payments to both the PX and the ISO. PG&E filed for bankruptcy in April 2001, and SCE teetered on the brink of bankruptcy. On January 29, 2001, the PX suspended trading in its markets, effectively ceasing its operations, and declared bankruptcy on March 9, 2001.

24. All told, wholesale power buyers, including DWR, paid approximately \$27 billion in each of 2000 and 2001 for wholesale power, compared to \$7 billion in 1999. Those costs are

1 being passed on to retail, end-use customers, and retail rates remain among the highest in the
2 nation more than four years after the start of the Energy Crisis.

3 **C. DWR's Authority to Enter into Energy Transactions**

4 25. On January 17, 2001, Governor Gray Davis declared a state of emergency in order
5 to ensure that a continuous supply of energy was available in California. Governor Davis
6 authorized the State, through DWR, to purchase electricity to protect the health, safety, and vital
7 economic interests of California citizens and businesses.

8 26. California's Energy Crisis required decisive action and unprecedented dedication
9 of State resources. Meeting in emergency session in January 2001, the California Legislature
10 passed Assembly Bill 1 of the 2001-2002 First Extraordinary Session ("AB 1X"), which took
11 effect on or about February 1, 2001.^{2/} This was comprehensive legislation charging DWR with
12 the task of procuring energy to provide California consumers with a stable supply of electricity.
13 The Legislature's findings and declarations in enacting AB 1X included the following:

14 The furnishing of reliable reasonably priced electric service is essential for the
15 safety, health, and well-being of the people of California. A number of
16 factors have resulted in a rapid, unforeseen shortage of electric power and
17 energy available in the state and rapid and substantial increases in wholesale
18 energy costs and retail energy rates, with statewide impact, to such a degree
19 that it constitutes an immediate peril to the health, safety, life and property of
20 the inhabitants of the state, and the public interest, welfare, convenience and
21 necessity require the state to participate in markets for the purchase and sale
22 of power and energy.

23 Cal. Water Code § 80000(a).

24 27. For several months after Governor Davis declared a state of emergency and DWR
25 assumed the role of purchasing electricity to avoid rolling blackouts, DWR was in constant
26 contact with the ISO. On an hourly basis, and often more frequently, the ISO apprized DWR of
27 the real-time electricity needs to balance the electrical grid and ensure the reliability of the system.
28 Energy marketers were not bidding into the PX or ISO markets, and many marketers refused to
transact out-of-market with the ISO. Consequently, DWR was forced to negotiate energy

2. AB 1X is codified in Division 27 of the California Water Code, §§ 80000 - 80270. Prior to the effective date of AB 1X, DWR made emergency purchases of needed electricity for the benefit of the public pursuant to authority conferred by Senate Bill 7 of the 2001-2002 First Extraordinary Session ("SB 7X"), which was codified in section 200 of the California Water Code.

1 transactions outside of the regulated markets to purchase thousands of megawatts of electricity,
2 often on an immediate basis, in order to meet the real-time energy needs in the ISO control area.
3 From January through October 2001, DWR spent over \$10 billion buying electricity on a short-
4 term basis from suppliers, including POWEREX.

5 **D. POWEREX's Participation in Manipulation of the California Energy Markets**

6 28. In May 2002, approximately two years after the start of the California Energy
7 Crisis, Enron Corporation released memoranda detailing various games and trading strategies it
8 and its traders used to manipulate the California energy markets. The public did not learn until
9 much later, however, about the extent of the market manipulation and that the manipulation and
10 gaming activities by energy marketers, including POWEREX, were a significant factor in the
11 cause of the Energy Crisis. As a result of the market manipulation, California faced an
12 unexpected and severe energy shortage from the summer of 2000 through 2001. The shortages
13 resulted in rolling blackouts and threats of frequent and extensive power outages. Attendant with
14 these blackouts and the continuous threats of power outages were the risks of catastrophic
15 consequences to the health, safety, and welfare of the people of the State of California.

16 29. POWEREX manipulated the California energy markets through Enron-style
17 gaming and trading strategies. At the time DWR entered into numerous transactions with
18 POWEREX, many sellers, including POWEREX, claimed that the Energy Crisis was caused by
19 "market fundamental" and claimed that California had simply failed to build power plants to meet
20 increasing demand. DWR lacked any knowledge of POWEREX's involvement in manipulation of
21 the California energy markets and its use of these trading strategies. Moreover, DWR lacked the
22 opportunity or means to obtain such knowledge until after August 2002, when the United States
23 Court of Appeals for the Ninth Circuit ordered the Federal Energy Regulatory Commission
24 ("FERC") to allow parties involved in its proceedings addressing the California Energy Crisis to
25 engage in discovery into market manipulation by energy producers and marketers, including
26 POWEREX.

27 30. As a result of the manipulation of the California energy markets, and through its
28 own participation in the manipulation of these markets, POWEREX was able to demand and insist

on numerous onerous transaction terms, including exorbitant prices, for energy it sold to DWR. DWR's apparent consent to the terms in each of the transactions with POWEREX was not real, mutual, or free in that it was obtained through duress and undue influence as herein alleged.

E. DWR's Transactions with POWEREX

31. As a result of the dysfunction of the ISO markets, insufficient energy was available through the ISO real-time market to satisfy the immediate needs to balance the grid and operate the system reliably. By January 2001, numerous energy marketers, including POWEREX, refused to supply energy to California through the PX or ISO energy markets. Moreover, POWEREX and other energy marketers refused to negotiate real-time, out-of-market transactions with the ISO. POWEREX insisted that any transactions to supply electricity to California must be conducted with DWR out-of-market.

32. Beginning on January 17, 2001, DWR stepped in to procure all of the energy needed in real-time to balance the grid and ensure reliability. The ISO would at times demand that DWR procure more than one thousand megawatts (1,000 MW) to supply the grid by the end of the hour. These were intense and stressful situations because the ISO was relying on DWR to procure sufficient OOM energy to maintain grid reliability and avoid blackouts. After canvassing various marketers, with only a limited amount of time to procure the electricity, DWR often found few marketers who had sufficient energy to satisfy the real-time needs of the system.

33. While other energy marketers could provide only a few megawatts to DWR to satisfy the real-time needs of the ISO system at any given hour, POWEREX had access to extensive hydroelectric resources which could supply large volumes of energy. Indeed, at all relevant times alleged in this Complaint, POWEREX was one of the largest, if not the largest, suppliers of real-time power to several locations within the ISO control area. During many hours, no other energy marketer was able to supply the large volumes of real-time electricity as POWEREX did. Consequently, DWR was compelled to enter into real-time, out-of-market transactions with POWEREX on a daily basis in order to obtain sufficient energy to satisfy the real-time energy needs and maintain the reliability of the ISO energy grid.

34. From January 17, 2001 through December 31, 2001, DWR and POWEREX

1 transacted thousands of OOM purchases. Although DWR had negotiated several long term
2 contracts with other energy marketers by the summer of 2001, the energy provided under
3 contracts in effect at that time still was not sufficient to satisfy the real-time energy needs to
4 maintain ISO grid reliability. Therefore, the ISO continued to request that DWR procure real-time
5 energy through the summer and fall of 2001.

6 35. In addition to transacting OOM purchases of real time energy, DWR also engaged
7 in numerous exchange transactions with POWEREX. An exchange of energy is a transaction
8 whereby an out-of-market supplier agrees to deliver a requested amount of electricity to a
9 counter-party in return for the counter-party's promise to provide an equal or greater volume of
10 power in the future.

11 36. Subsequent to the issuance of an order by the Federal Energy Regulatory
12 Commission on June 19, 2001, requiring price mitigation in the California markets, POWEREX
13 advised DWR that it could not sell energy to California at mitigated prices. POWEREX insisted
14 that energy transactions with DWR be by exchanges of energy, frequently at a 2.5:1 ratio. Under
15 the terms of these exchange transactions, DWR returned two and a half megawatts (2.5 MW) of
16 electricity to POWEREX for every one megawatt (1 MW) POWEREX provided to DWR.
17 Because DWR still had few alternatives for supplies of energy in real-time, DWR had no choice
18 but to deal with POWEREX on these terms. At all relevant times alleged in this Complaint, the
19 exchange ratio POWEREX insisted be applied for all exchange transactions with DWR was
20 higher than exchange ratios for exchange transactions DWR transacted with other suppliers.

21 37. At all relevant times alleged in this Complaint, DWR paid for all energy procured
22 from POWEREX through OOM transactions and performed all of its obligations in these
23 transactions and in all other transactions with POWEREX. DWR was compelled to comply with
24 all terms of its transactions with POWEREX in order to ensure a supply of energy for California
25 during the Energy Crisis.

26 38. At all relevant times alleged in this Complaint, POWEREX was aware of and
27 participated in the market manipulation and market gaming that resulted in the California Energy
28 Crisis. The manipulation and gaming activity tended to tighten the supply of electricity in the

1 California energy markets. The tightening of supply was part of a larger plan that allowed
2 marketers, including POWEREX, to give the appearance of a shortage of supply in the markets
3 and enabled POWEREX and other marketers to sell energy at higher prices. The market
4 manipulation and market gaming created conditions that enabled POWEREX to demand
5 exorbitant prices through duress and undue influence in the transactions with DWR.

6 39. POWEREX was further aware that no other energy marketers were able to supply
7 DWR with large volumes of energy on a real-time basis and that POWEREX was DWR's only
8 option in its efforts to help the ISO maintain grid reliability and avoid blackouts during the Energy
9 Crisis. POWEREX used this knowledge to demand exorbitant prices and impose onerous
10 transaction terms for the energy it supplied to DWR. In so doing, POWEREX unfairly extracted
11 millions of dollars from DWR.

12 40. At all relevant times alleged in this Complaint, POWEREX took an oppressive and
13 unfair advantage of the Energy Crisis and DWR's immediate needs to procure sufficient real-time
14 energy to avoid blackouts. POWEREX was not a reasonable counter-party and refused to
15 negotiate exchange ratios or the price of the energy it had available to supply. No other
16 marketers charged higher prices or required higher exchange ratios for real-time energy than
17 POWEREX. Consequently, DWR went to POWEREX only as a last resort if other energy
18 marketers were unable to supply sufficient real-time energy. However, because no other
19 marketers could supply the volumes of real-time energy DWR needed to maintain grid reliability,
20 DWR had no choice but to transact with POWEREX on terms POWEREX dictated.

21
22 **FIRST CAUSE OF ACTION**
(Duress, Unjust Enrichment, Rescission and Restitution)

23 41. DWR realleges and incorporates by reference paragraphs 1 through 40 inclusive as
24 if fully set forth herein.

25 42. As a result of POWEREX's knowledge of manipulation of the California energy
26 markets, its participation in the market manipulation, and the ensuing Energy Crisis, DWR was
27 compelled to procure OOM energy and agree to onerous transactions terms dictated by
28 POWEREX. DWR has suffered substantial harm under the terms of the transactions with

POWEREX and seeks to rescind each of the transactions with POWEREX from January 17, 2001, through December 31, 2001.

43. DWR has conferred monetary and other benefits to POWEREX as a result of duress, and POWEREX has unjustly retained such benefits. DWR seeks restitution of such benefits unjustly received and retained by POWEREX.

44. DWR intends service of the summons and complaint in this action to serve as notice of rescission of all transactions between DWR and Defendant POWEREX from January 17, 2001 and through December 31, 2001.

WHEREFORE, DWR prays for judgment as set forth below.

**SECOND CAUSE OF ACTION
(Undue Influence, Unjust Enrichment, Rescission and Restitution)**

45. DWR realleges and incorporates by reference paragraphs 1 through 44 inclusive as if fully set forth herein.

46. POWEREX was aware of DWR's acute needs to procure large volumes of real-time energy during the Energy Crisis to avoid blackouts. POWEREX took unfair advantage of DWR under these circumstances and induced DWR to agree to onerous transaction terms through undue influence. DWR has suffered substantial harm under the terms of the transactions with POWEREX and seeks to rescind each of the transactions with POWEREX from January 17, 2001, through December 31, 2001.

47. DWR has conferred monetary and other benefits to POWEREX as a result of undue influence, and POWEREX has unjustly retained such benefits. DWR seeks restitution of such benefits unjustly received and retained by POWEREX.

48. DWR intends service of the summons and complaint in this action to serve as notice of rescission of all transactions between DWR and Defendant POWEREX from January 17, 2001 and through December 31, 2001.

WHEREFORE, DWR prays for judgment as set forth below.

1 **THIRD CAUSE OF ACTION**
2 **(Contract Contrary to Public Policy and Interest)**

3 49. DWR realleges and incorporates by reference paragraphs 1 through 48 inclusive as
4 if fully set forth herein.

5 50. California Civil Code section 1689(b)(6) provides that “[a] party to a contract may
6 rescind the contract . . . [i]f the public interest will be prejudiced by permitting the contract to
7 stand.”

8 51. The transactions between POWEREX and DWR, if allowed to stand, would
9 prejudice the public interest and frustrate public policy within the meaning of Civil Code section
10 1689(b). At all relevant times alleged in this Complaint, DWR had an interest and obligation to
11 furnish reliable reasonably priced service to California consumers and to prevent risks of
12 catastrophic consequences to the health, safety and welfare of the people of the State of
13 California. In addition, California has a legitimate and compelling interest in protecting
14 consumers from, and preserving a business climate free of unscrupulous business practices. The
15 public interest and/or policy will be prejudiced by permitting the contracts between POWEREX
16 and DWR to stand. DWR therefore seeks to rescind each of the transactions and contracts with
17 POWEREX between January 17, 2001, and December 31, 2001.

18 52. DWR has conferred monetary and other benefits to POWEREX, and POWEREX
19 has unjustly retained such benefits. DWR seeks restitution of such benefits unjustly received and
20 retained by POWEREX.

21 53. DWR intends service of the summons and complaint in this action to serve as
22 notice of rescission of all transactions between DWR and Defendant POWEREX from January
23 17, 2001 and through December 31, 2001.

24 WHEREFORE, DWR prays for judgment as set forth below.

25 **FOURTH CAUSE OF ACTION**
26 **(Declaratory Relief)**

27 54. DWR realleges and incorporates by reference paragraph 1 through 53 inclusive as
28 if fully set forth herein.

55. The consent of DWR to each of the transactions with POWEREX between January 17, 2001, and December 31, 2001, was not real, mutual, or free in that DWR's consent was obtained solely through duress and undue influence exercised by POWEREX. At a time when the State was suffering from a crippling energy crisis, caused in part by POWEREX's participation in market manipulation, POWEREX took unfair advantage of the state of emergency to demand exorbitant prices for OOM energy and onerous terms in exchanges and in all other transactions between the parties. DWR was unaware of the market manipulation at the time of the energy transactions with POWEREX. Each of the transactions between DWR and POWEREX was contrary to the public policy of the State of California and to the public interest within the meaning of California Civil Code section 1689.

56. DWR desires a declaration that all of the transactions between DWR and POWEREX for the period from January 17, 2001 through December 31, 2001, are void and of no force or effect on the grounds that DWR's agreements to the terms of each of the transactions was induced by duress and/or undue influence, and/or that the transactions were contrary to the public policy of the State of California and to the public interest within the meaning of California Civil Code section 1689.

WHEREFORE, DWR prays for judgment as set forth below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff CALIFORNIA DEPARTMENT OF WATER RESOURCES
prays for judgment against Defendant POWEREX as follows:

1. For a declaration that the transactions between Plaintiff and Defendant are void and of no force or effect;
2. For a determination and order that the transactions between Plaintiff and Defendant are rescinded;
3. For restoration of any and all monetary and other benefits which have been conferred by Plaintiff to Defendant and which Defendant has unjustly retained in order to avoid unjust enrichment to Defendant;
4. For compensatory damages according to proof;

- 1 5. For an order awarding Plaintiff its costs of suit herein;
2 6. For such other and further relief as the nature of the case may require and the
3 court deems appropriate and just.

4 **DEMAND FOR JURY TRIAL**

5 Plaintiff hereby demands trial by jury.

6 DATED: February 10, 2005

7 Respectfully submitted,

8 BILL LOCKYER
9 Attorney General of the State of California

10 TOM GREENE
11 Chief Assistant Attorney General

12 KEN ALEX
13 Acting Senior Assistant Attorney General

14 MARTIN GOYETTE
15 Supervising Deputy Attorney General

16 _____
17 ANNADEL A. ALMENDRAS
18 Deputy Attorney General

19 Attorneys for Plaintiff CALIFORNIA
20 DEPARTMENT OF WATER RESOURCES
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