

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

<b>California Electricity Oversight Board</b>	) ) )	<b>Docket No. EL99-75-000</b>
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**MOTION TO INTERVENE AND COMMENTS OF  
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. § 385.214, and the Commission's July 9, 1999, Notice of Filing, the California Independent System Operator Corporation<sup>1</sup> ("ISO") hereby moves to intervene in the above-captioned proceeding. In support thereof, the ISO states as follows:

**I. COMMUNICATIONS**

Please address communications concerning this filing to the following persons:

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and General Counsel  
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<sup>1</sup> Capitalized terms not otherwise defined herein are defined in the Master Definitions Supplement, ISO Tariff Appendix A, as filed August 15, 1997, and subsequently revised.

## II. BACKGROUND

On July 7, 1999, the California Electricity Oversight Board (“CEOB”) tendered for filing a Petition for Declaratory Order and Exemption of Filing Fee. The CEOB’s petition for declaratory relief requests that the Commission order that Senate Bill (SB) 96 resolves disputed issues in Commission Docket Nos. EC96-19, ER96-1663, *et al.*, and pending before the United States Court of Appeals for the District of Columbia Circuit in Case Nos. 98-1225, 98-1226 and 99-1133. The CEOB also requests that the Commission order that the authorities and responsibilities to be exercised by the State of California through the CEOB, as set forth in SB 96, are consistent with federal law.

The background of the litigation pending before the Court of Appeals is set forth in the CEOB’s Petition. The following is relevant to the Commission’s consideration of the Petition.

On January 5, 1999, in an open session following public and stakeholder comment, the Governing Board of the ISO adopted Amended and Restated Bylaws to comply with the Commission’s orders that are the subject of the petitions for review. The effectiveness of the amendments was expressly conditioned upon acceptance by the Commission. The ISO filed the Amended and Restated Bylaws with the Commission on January 8, 1999. The Commission has not as yet accepted the amendments.

Under the ISO’s currently effective Bylaws, the terms of the current Governing Board members will expire on the earlier of November 30, 1999, or 120 days after resolution of the petition for review. In light of the ISO’s anticipation of enactment of SB 96 prior to that expiration date, the ISO was concerned that the expiration date

would leave insufficient time to elect a new Board in compliance with the procedures included in SB 96. The Governing Board, therefore, on June 24, 1999, adopted a resolution amending the Bylaws to extend the initial term to March 31, 2000. This resolution was filed with the Commission on July 8, 1999.

On July 16, 1999, the ISO supplemented its January 8, 1999, and July 8, 1999, filing. The ISO noted that it was currently in compliance with the Commission's orders concerning its Bylaws, but that if the Commission accepted the January 8, 1999, filing, the Bylaws as amended would conflict with California law. The ISO stated that if, instead, the Commission grants the CEOB's Petition for a Declaratory Order and, as expected, the legislature approves (and the Governor signs) SB 96, the ISO would be able to submit new amendments to the Bylaws that will comply with both Commission Orders and State law. The ISO therefore requested that the Commission withhold action on the ISO's January 8, 1999, filing until such time as the Commission acts on the CEOB's Petition for Declaratory Order and, if the Petition is granted, the ISO is able to implement SB 96.

### **III. BASIS FOR MOTION TO INTERVENE**

The ISO is a non-profit public benefit corporation organized under the laws of the State of California and responsible for the reliable operation of a grid comprising the transmission systems of Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company, as well as for the coordination of the competitive electricity market in California.

The ISO is a party to the above-mentioned dockets before the Commission, as well as to two of the three petitions for review pending before the Court of Appeals.

Those proceedings, as well as the instant proceeding, concern the ISO's Bylaws. No other party can adequately represent the ISO's interest on issues directly related to the ISO's governance. Accordingly, the ISO requests that it be permitted to intervene herein with full rights of a party.

#### **IV. COMMENTS**

The ISO strongly supports the CEOB's request for a declaratory order, and urges expeditious action. The issuance of the requested order (following adoption of SB 96) would allow the ISO to amend its Bylaws, elect a new Governing Board, and direct its full resources to working with the Commission, the CEOB, the California Public Utilities Commission and Market Participants toward achievement of a fully competitive electricity market in the State of California – one that the ISO hopes can provide a model for the rest of the nation.

**V. CONCLUSION**

Wherefore, for the foregoing reasons, the ISO respectfully requests that the Commission permit it to intervene, that it be accorded full party status in this proceeding, and that the Commission issue the Declaratory Order as requested in the Petition.

Respectfully submitted,

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Counsel for the California Independent  
System Operator Corporation

Date: July 22, 1999

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC, on this 22<sup>nd</sup> day of July, 1999.

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Michael E. Ward

July 22, 1999

The Honorable David P. Boergers  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Re: **California Electricity Oversight Board,  
Docket No. EL99-75-000**

Dear Secretary Boergers:

Enclosed for filing are one original and 14 copies of the Motion to Intervene of the California Independent System Operator Corporation in the above-referenced proceeding. Two additional copies of the filing are also enclosed. Please stamp the two additional copies with the date and time filed and return them to the messenger.

Thank you for your assistance in this matter.

Respectfully submitted,

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