

**Statement of Terry Winter
President and Chief Executive Officer
California Independent System Operator Corporation
Before the
Federal Energy Regulatory Commission
in Docket No. EL00-95-000
November 9, 2000**

Mr. Chairman, Members of the Commission:

On behalf of my colleagues at the California ISO and, I trust, on behalf as well of all who share the goal of an effective competitive marketplace, I must begin by thanking you and your staff for the enormous effort that you each have expended on behalf of California and its electric consumers over these past three years. We have not, in the past, agreed with your every action and we surely will have differences in the future, but our commitments are in total harmony: to achieve for consumers the benefits of efficiency and innovation that competition can best provide, while retaining the reliability upon which we are so dependent..

I harbor no illusion that your Order of November 1st will put discord to rest. I do, however, cling to an overriding hope: that each constituency with a stake in California's electric markets will recognize the need to suppress differences and choose, instead, to build on the commitment to restructuring that we share.

Undoubtedly, left to ourselves, we each would have written your Order somewhat differently. And, through the comments that you have invited, we should advocate modifications that we each think desirable. But we have a fundamental choice to make, and depending on our respective choices, the consequences for consumers could be severe.

We can choose to magnify differences and to engage in protracted litigation or, working together, we can build on the foundation that you have provided. The former course ensures a prolonged period of uncertainty. And we in California are painfully

aware of the enormous cost of uncertainty. It is, indeed, the root cause of the problems we face today.

We can and we will do all in our collective power to take the short-term actions that are necessary to protect consumers and to ensure reliability. But absent a massive injection of infrastructure investment, we will be fighting a losing battle.

For the decade pre-restructuring investment was not forthcoming for one overriding reason: uncertainty. Post-restructuring, investment has begun to flow. At the ISO, we have endorsed almost \$1 billion in transmission investments, and private entrepreneurs have proposed significant investments in additional generation capacity. That capacity is sorely needed in California not only because of the economic growth that is so dependent on electric supply, but because of the advanced age of California's generation inventory. We cannot be sanguine that investment will continue to flow – even for units already in the advanced stages of permitting – if we again are beset with protracted uncertainty.

My plea to all concerned is, therefore, a simple one: let us pledge to come together to take the only course of action available if the interests of electric consumers are to be paramount and are to be protected; let us reject the route of confrontation.

As we at the ISO study further the Order and the Staff Report over the coming days, there surely will be aspects about which we will have questions – whether on the merits or in terms of the feasibility or timing of implementation. But that is not what I want to focus on today. Instead, I prefer to emphasize the many positives that I see.

First, we absolutely agree that we must put an end to what, inappropriately, has evolved into an obligation imposed on the ISO – the procurement of supply necessary to meet predictable load. That is the very core responsibility of load-serving entities. Yet, it is a responsibility that has been shifted to my operations staff, complicating

significantly the daunting challenges it already faces as it struggles to maintain reliability.

It is highly inappropriate to rely on spot markets for the acquisition of commodities that must be obtained; it is irresponsible to postpone to real-time operations the acquisition of anything more than the amount needed to fine-tune the balance between supply and demand.

We support the encouragement of supply portfolios that are balanced with longer- and short-term commitments. We strongly concur with the Commission's conclusion that inappropriate reliance on supply acquisition in real-time must be severely discouraged. We do have questions about whether the proposal is likely to encourage the intended purpose. To the extent that our continuing study identifies problems, we will of course share them in our written submission and, wherever feasible, offer modifications to facilitate achievement of what I understand to be a shared objective. For now, I simply want to underscore our agreement with an overarching premise of the Order: that the market activities of the ISO must be minimized; that they must be confined to the activities that are inseparable from the ISO's core responsibility – reliability.

Second, we echo your recognition that the west is an integrated region; that California is not an island. Without at all suggesting that it would be acceptable for California to shirk the responsibility it must bear for its indigenous load, electrically and logically, the entire western United States is inter-dependent. That is why I have made no secret of my support for a regional RTO. Your Order can only serve to further encourage that development and, notwithstanding our understandable preoccupation with today's immediate challenges, we will not temper our efforts to facilitate achievement of that end. The benefits of regionalism do not require the suppression of

legitimate state and local interests. Again, all that is required is that we pull together with the attitude that we can succeed.

Third, we agree that success for consumers requires that we encourage and nurture a market-based structure. I will not belabor the failures of the former command and control paradigm. Suffice it to say, restructuring occurred in California because the system was indeed broken and, for all its difficulties, the path selected was the correct one. It would be a monumental disservice to consumers even to imply that return to the former paradigm deserves consideration. No single act could cause greater uncertainty and with it the abandonment of essential infrastructure investment and development.

At the same time, the market structure must yield rates that are just and reasonable. That has been a guiding premise of the ISO as it clearly is of the Commission. As you are well aware, it is no easy challenge to design a mechanism that simultaneously mitigates the exercise of market power while encouraging entry and forward contracting based on competitive prices. This is the aspect of the November 1st proposal that has raised the most questions among my staff, not with the intent but with the likelihood of success. Again, we will discuss specific concerns in our written comments and offer the modifications we think appropriate.

Finally, as we consider the incentives provided for new investment, a sensitivity that must be part of any market mitigation measure, it behooves us to focus particular attention on what may be needed to stimulate the participation of demand and of supply resources powered by renewables. The Order addresses the former but is not explicit as to the latter. I hope to be able to offer suggestions in each area in our written comments.

Mr. Chairman and Members of the Commission, I want to conclude as I began, with our thanks. You have made clear that you are well aware of the fact that I am blessed with an absolutely first-rate staff. It has met challenges that were never anticipated and has done so with distinction. I am confident that it will continue to do so. But I must tell you that the challenges will not get easier. We do not possess a magic wand. Unless we are exceedingly lucky next summer – and as a system operator I am loathe to rely on luck – the challenges to reliability will be even more formidable than it was this past summer.

We are grateful for the support that you have given to us in the past, and for the continuing commitment that you clearly have signaled to California and to its ratepayers.