

May 4, 2006

The Honorable Magalie Roman Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

**Re: North American Electric Reliability Council and North American
Reliability Corporation
Docket No. RR06-1-000**

Dear Secretary Salas:

Enclosed please find an electronic filing of the Motion to Intervene and
Comments of the California Independent System Operator Corporation.

Thank you for your attention to this filing.

Respectfully submitted,

/s/ Anthony J. Ivancovich

Anthony J. Ivancovich

Counsel for the California Independent
System Operator Corporation

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

North American Electric Reliability)	
Council and North American)	Docket No. RR06-1-000
Reliability Corporation)	

**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 April 7, 2006 Notice of Filing, the California Independent System Operator Corporation ("CAISO") hereby moves to intervene and comment in the above-captioned proceeding.

In support thereof, the CAISO states as follows:

I. COMMUNICATIONS

Please address communications concerning this filing to the following person:

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II. BACKGROUND

On April 4, 2006, the North American Electric Reliability Council and its affiliate, North American Electric Reliability Corporation (jointly “NERC”) filed with the Commission an application for certification as the Electric Reliability Organization (“ERO”) pursuant to Section 215 of the Federal Power Act. NERC states that it has met all of the statutory and regulatory requirements to serve as the ERO for the United States and to ensure reliable operation of the North American Bulk Power System. NERC also seeks Commission approval of its certificate of incorporation, bylaws, and rules of procedure, all of which will become ERO rules. NERC seeks ERO status effective January 1, 2007.

By its Notice of Filing issued April 7, 2006 the Commission established May 4, 2006 as the date motions to intervene are to be filed in the above-captioned proceeding.

III. BASIS FOR MOTION TO INTERVENE

The CAISO is a non-profit public benefit corporation organized under the laws of the State of California and is responsible for the reliable operation of a transmission grid comprised of transmission facilities owned by Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Trans-Elect NTD Path 15 LLC, and the Cities of Vernon, Anaheim, Azusa, Banning, Riverside and Pasadena, California. As the operator of this regional transmission grid, as well as the operator of organized electricity and Ancillary Services markets, the CAISO has a significant and unique interest in the captioned proceeding that cannot be adequately represented by any other

party. Further, the CAISO will be impacted by any Commission action in this proceeding. Accordingly, the CAISO should be permitted to intervene with full rights as a party.

IV. COMMENTS

A. The CAISO Supports Certification Of NERC As The ERO, But The Commission Should Condition Certification By Ordering Certain Modifications To NERC's Application

The CAISO supports certification of NERC as the ERO. The CAISO also supports NERC's retention of an independent board structure and NERC's treatment of ISOs and RTOs as a separate industry segment for purposes of representation on the ERO Member Representatives Committee, which elects NERC's Board of Trustees.

However, there are certain aspects of NERC's proposal that must be modified in order to make such proposal just and reasonable and consistent with the intent of the Energy Policy Act of 2005 ("EPAct 2005"). As discussed in greater detail below, the CAISO submits that the Commission should order the following changes to NERC's proposal:

- (1) ISOs and RTOs should be their own standalone industry segment in the Registered Ballot Body ("RBB") and on the Standards Committee and should not be included in the same industry segment as Regional Reliability Organizations ("RRO") and Regional Entities ("RE") given the different functions that each perform;
- (2) NERC should allow at least 180 days to negotiate and execute Regional Delegation Agreements ("RDAs") with REs, not the 90 days specified in NERC's application;
- (3) NERC should have a single set of clear requirements that apply to an RE's compliance enforcement process, and the

requirements specified in Section 403 of NERC's proposed Rules of Procedure should be included;¹ and

- (4) inputs into an RE's compliance enforcement process, as well as the composition of any RE hearing panel or committee, must be fair and non-discriminatory and reflect balanced representation of all industry segments.

Finally, although the CAISO recognizes that the Commission will not rule on specific issues related to RE governance until such time as executed RDAs are filed with the Commission, the CAISO briefly highlights below its general concerns about the governance of REs and the role of ISOs and RTOs in the governance process and in subordinate structures. The CAISO is particularly concerned that issues regarding RE governance and the assurance of fair and balanced representation in the governance and standards setting process will not be able to be resolved satisfactorily in the 90-day period that NERC has established for negotiating and executing RDAs.

B. ISOs And RTOs Should Be A Separate Industry Segment In The RBB And On The Standards Committee And Should Not Be Included In The Same Industry Segment As RRO

Although NERC, in its bylaws, treats ISOs and RTOs as a separate industry segment for purposes of representation on the Member Representatives Committee and voting for ERO Board members,² in its Rules of Procedure, NERC proposes to include ISOs and RTOs in the same industry segment as

¹ NERC has proposed minimum applicable requirements for a RE's compliance enforcement program in two separate places -- Section 403 of NERC's Rules of Procedure and Exhibit D to the *pro forma* RDA -- but there are differences between the two.

² See NERC Bylaws at Article II, Section 4, Article III, Section 6.

RROs and REs for purposes of developing and voting on reliability standards.³ This is arbitrary, unreasonable, and inconsistent with the intent of the EAct 2005. Further, it ignores Commission precedent regarding the unique functions performed by ISOs and RTOs.

ISOs and RTOs should be represented in the RBB and on the Standards Committee as their own separate industry segment just as they are on the Member Representatives Committee; they should not be included in the same industry segment as RROs and REs. NERC offers no rationale for including ISOs and RTOs in the same industry segment as RROs for purposes of developing and voting on reliability standards. This is an arbitrary designation given that NERC has treated ISOs/RTOs and RROs/REs as separate industry segments for purposes of representation on the Member Representatives Committee. There is no reasonable basis to treat ISOs and RTOs differently for purposes of the RBB and Standards Committee than they are treated for purposes of the Member Representatives Committee.⁴

To the contrary, there are compelling reasons why ISOs and RTOs should not be grouped with RROs/REs in the same industry segment for purposes of developing and voting on reliability standards but, instead, should be their own standalone segment. First, ISOs and RTOs perform fundamentally different functions than RROs and REs. REs set and enforce standards; whereas, ISOs

³ See NERC Rules of Procedure, Sections 305, 306 and 308. In Article III, Section 4 of the proposed Bylaws, NERC treats RROs/REs as a separate industry segment for purposes of the Member Representatives Committee.

⁴ Likewise, NERC has not offered any justification why ISOs and RTOs should be treated as a separate industry segment for purposes of the Member Representatives Committee, but not for purposes of the RBB or the Standards Committee.

and RTOs operate integrated transmission systems and electricity markets and are required to implement and comply with reliability standards (which standards may have been proposed to NERC by an RE). In other words, REs will be overseeing and enforcing ISOs' and RTOs' compliance with reliability standards. NERC's proposal essentially includes regulators in the same voting block as the entities being regulated. That is patently unreasonable and illogical.⁵

Second, NERC's proposal fails to satisfy the mandate in the EPAct 2005 that the ERO (and REs) have rules that "assur[e] ... balanced decisionmaking in any ...committee or subordinate organizational structure" and "provide for...balance of interests in developing reliability standards."⁶ RROs/REs and ISOs/RTOs should be treated as separate industry segments (just as they are on the Member Representatives Committee), so that the unique interests of each will be appropriately and adequately represented in the standards setting process. Because of the segment voting that exists under NERC's Rules of Procedure, the grouping of ISOs/RTOs and RROs in the same industry segment potentially could result in ISO/RTO interests and positions not being reflected in the final vote of the RBB and/or their votes being unfairly diluted. Similarly, the possibility exists that ISOs and RTOs will not be represented on the Standards Committee, which oversees the reliability standards development process.

Two-thirds of Americans live in regions served by ISOs and RTOs and, in 2004 ISOs/RTOs delivered 62 percent of the electricity consumed in the U.S. and

⁵ No other industry segment in the RBB and the Standards Committee is comprised of two different types of entities that perform completely different functions. This is further reason why it arbitrary and unfair to group ISOs and RTOs into a single industry segment with REs and RROs.

⁶ Federal Power Act, Section 215(c)(2)(A)and(D).

58 percent of the peak load.⁷ Further, ISOs and RTOs oversee more than 270,000 miles of high voltage transmission lines and coordinate power production from 585,000 megawatts of generation (67% of the U.S. total).⁸ Given these facts, not treating ISOs and RTOs as a stand-alone industry segment in the RBB and on the Standards Committee does not constitute “balanced decisionmaking” or result in a fair “balance of interests.” The CAISO submits that the mandate in the EAct 2005 can only be satisfied by treating ISOs and RTOs as a separate stakeholder segment in all NERC committee and subordinate structures.

Third, other aspects of the EAct 2005, as well as the Commission’s Order No. 672, support treating ISOs/RTOs and RROs as separate industry segments. In that regard, both the EAct 2005 and Order No. 672 recognize ISOs and RTOs as separate entities (apart from REs) that have distinct responsibilities with respect to reliability standards. For example, Section 215(a) of the Federal Power Act has separate definitions for transmission organizations (*i.e.*, ISOs and RTOs) and REs that expressly recognize the different functions performed by each.⁹

⁷ *The Value of Independent Regional Grid Operators*, ISO/RTO Council, at 9 (2005).

⁸ *Id.*

⁹ Section 215(a)(6) of the Federal Power Act defines a “transmission organization” as follows: a “Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.” On the other hand, a “regional entity” is separately defined in Section 215(a)(7) of the Federal Power Act as an “entity having enforcement authority pursuant to subsection (e)(4)” of the Federal Power Act. Similarly, Order No. 672 has separate definitions for Transmission Organizations and Regional Entities consistent with the definitions in the EAct 2005. *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. Regulations Preambles ¶ 31,204). 18 C.F.R. § 39.1, *order on reh’g*, Order No. 672-A, 114 FERC ¶ 61,328 (2006). Thus, the Commission expressly recognized ISOs and RTOs as distinct entities from REs and performing different functions with

Further, Section 215(d)(6) of the Federal Power Act provides that any final rule adopting reliability standards must “include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule or agreement... applicable to a transmission organization.”¹⁰ Consistent with this requirement, Order No. 672 requires a Transmission Organization to expeditiously notify the Commission of any possible conflict between a reliability standard and a Transmission Organization tariff.¹¹ The fact that both the EAct 2005 and Order No.672 envision the aforementioned distinct role for ISOs and RTOs in the standards development process and expressly recognize this important issue that uniquely affects ISOs and RTOs, is further reason why ISOs and RTOs should be treated as a standalone segment in the RBB and the Standards Committee. ISOs and RTOs have a significant interest in ensuring that reliability standards do not conflict with their tariffs or create implementation issues. REs do not necessarily share that same interest. Thus, including ISOs and RTOs in the same industry

respect to reliability standards. Elsewhere in Order No. 672, the Commission recognized the unique characteristics and functions of ISOs and RTOs. Order No. 672 at PP 56, 672, 698. Accordingly, ISOs & RTOs should be recognized as separate industry segments in the RBB and on the Standards Committee.

¹⁰ The EAct 2005 recognizes Transmission Organizations as distinct entities (as well as the distinct role they play) in several other sections: (1) the ability of federal utilities to join Transmission Organizations (Section 1232); (2) native load obligations and the allocation of transmission rights in systems operated by Transmission Organizations (Section 1233); and (3) the requirement for the Commission to promulgate a rule requiring Transmission Organizations to offer long-term transmission rights (Section 1233).

¹¹ Order No. 672 at P 444 and 18 C.F.R. § 39.6. In Order No. 672-A, the Commission further clarified that the ERO should attempt to resolve potential conflicts in the Reliability Standards development process and to identify any potential conflict with a Transmission Organization tariff in its filing with the Commission. Order No. 672-A at P 42. This is another reason why the role of ISOs/RTOs in the standards development process should not be marginalized.

segment as REs could serve to dilute ISOs' and RTOs "voices" and votes on matters that impact ISO and RTO tariffs.

Finally, Section 215(d)(2) of the Federal Power Act requires that the Commission not defer to the ERO with respect to the effect of a reliability standard on competition. In Order No. 672, the Commission stated that it will ensure that a reliability standard does not have the implicit effect of either favoring or thwarting organized markets.¹² Of the nine industry segments that NERC has created for the RBB and the Standards Committee, only ISOs and RTOs perform the dual function of operating organized markets, as well as operating regional transmission systems. Thus, ISOs and RTOs will be directly impacted by reliability standards that affect competition and organized markets (as well as related transmission operations). ISOs and RTOs are uniquely impacted in this way and, as such, are uniquely situated to provide informed and expert input to NERC and the Commission regarding the impact of proposed reliability standards on organized markets. However, because ISOs and RTOs are not guaranteed representation on the Standards Committee, there are no assurances that ISO/RTO interests and positions on such important matters will be fairly represented. Also, ISO/RTO votes could be completely offset by the votes of RROs, thereby resulting in a situation where ISOs and RTOs do not have a "separate" voice, or a "separate" vote with respect to issues that affect competition and organized markets. This does not constitute "balanced decisionmaking," nor does it result in a "balance of interests in developing reliability standards."

¹² Order No. 672 at P 378.

For the foregoing reasons, there is no legitimate basis for including ISOs and RTOs in the same industry segment as RROs for purposes of representation in the RBB and on the Standards Committee. This could result in ISOs' and RTOs' independent and expert opinions and positions being diluted or unrepresented in contravention of the balanced decision making and "balance of interests" envisioned by Congress. Accordingly, the Commission should revise NERC's application to make ISOs and RTOs a separate industry segment in the RBB and on the Standards Committee.¹³

C. NERC Should Allow At Least 180 Days For The Negotiation And Execution Of RDAs

NERC states that it intends to negotiate and execute RDAs with REs within 90 days of certification as an ERO by the Commission. Transmittal Letter at 81.

The CAISO is a party to comments being jointly filed by the California Investor Owned Utilities and the CAISO (referred to collectively as "Joint Parties"). In those comments, the Joint Parties demonstrate why 90 days will not allow sufficient time for adequate stakeholder review and input into the RE designation process. In particular, if the Western Electricity Coordinating Council ("WECC") becomes the RE for a region that includes the CAISO footprint, the CAISO is interested in ensuring that the WECC board has truly balanced representation and that specific criteria be established for defining a balanced

¹³ For the reasons set forth in the Comments submitted by the ISO/RTO Council, the Commission should require NERC to waive the 10-vote minimum requirement for full valuation of an ISO/RTO-only segment. No such minimum requirement exists with respect to ISO/RTO representation on the Member Representatives Committee as a separate industry segment. It is arbitrary to include such a minimum requirement for an ISO/RTO industry segment in the standards development process. It seems particularly arbitrary given that an independent ISO/RTO segment would consist of nine members at the most.

board under Section 215(e)(4)(A) of the Federal Power Act. For the reasons set forth in the comments of the Joint Parties, the CAISO believes that 90 days is too short a period of time to resolve the numerous and complicated issues associated with selecting an RE and developing a governance structure that that is fully supported by members in the region and consistent with statutory requirements.

Further, 90 days is not a sufficient amount of time to negotiate RDAs with entities that are not already RROs but desire to undertake the role of an RE. The issues associated with regional delegation and becoming a new RE are complicated. Such entities would need to develop the proposals, processes, procedures, structural arrangements and staffing necessary to function as an RE. Such entities would also have to work with industry members in the region to determine if there is support for such entity undertaking the role of an RE. Undertaking these tasks within a 90-day period would be a monumental task for an entity that is not already an RRO. A 90-day period implicitly assumes that only incumbent RROs will become REs. That is not necessarily the case.¹⁴ Similarly, a 90-day period gives incumbent RROs an unfair advantage *vis-à-vis* entities that are not already RROs.

For the foregoing reasons, the Commission should allow at least 180 days to negotiate and execute an RDA. This will (1) allow adequate time for stakeholders to work with WECC and NERC to resolve governance and other complicated issues, and (2) provide all entities with a fair and reasonable

¹⁴ For example, in Order No. 672, the Commission ruled that ISOs and RTOs could serve as REs provided that they met certain requirements. Order No. 672 at P 699.

opportunity to seek to become an RE and adequate time to prepare the necessary documentation, processes and infrastructure.

D. The Commission Should Clarify That The “Required Attributes” Specified In Section 403 Of The Rules Of Procedure Apply To RE Compliance Programs And Direct NERC To Set Forth All Compliance Program Requirements In One Place

Section 403 of NERC’s proposed Rules of Procedure, *Required Attributes of Regional Entity Compliance Enforcement Programs*, sets forth the minimum required attributes of an RE compliance enforcement program. Exhibit D of the *pro forma* RDA also sets forth the requirements that an RE must meet with respect to its compliance enforcement program. However, Exhibit D does not provide that REs are required to meet the “required attributes” of an RE compliance enforcement program, as specified in Section 403. This is a potential source of confusion (and concern) because the “requirements” specified in Exhibit D are not identical to the “required attributes” specified in Section 403. For example, Section 403(1) contains a requirement that each RE’s compliance enforcement program exhibit independence. No such express independence requirement is contained in Exhibit D. In addition, there are several other dissimilarities between the specified “requirements” in Exhibit D and the “required attributes” in Section 403;¹⁵ although both sets of requirements purportedly apply to a RE’s compliance enforcement program.

Given that the RDA does not expressly provide that Regional Entities must comply with Section 403 (and given that the RDA is the document that binds the

¹⁵ For example, Section 403 requires “appropriate recusal procures”, but Exhibit D does not specify that as an express requirement. The implementation of appropriate recusal procedures should be a requirement for Regional Entities.

RE to specific requirements) it is unclear whether the “required attributes” specified in Section 403 will even apply to RE compliance programs. Also, if NERC intends that both the “required attributes” in Section 403 and the “requirements” in Exhibit D apply, it is not clear which would take precedence in the event there is inconsistent language between the two. It is important that the Commission resolve this matter because there are requirements in Section 403, e.g., independence, that should apply to RE compliance enforcement programs, but are not expressly and separately specified in Exhibit D. To clear up any confusion, the CAISO recommends that the Commission direct NERC to develop a single set of requirements (integrating both Section 403 and Exhibit D) that apply to RE compliance enforcement programs. Alternatively, the Commission could (1) require NERC to amend Exhibit D of the RDA to provide expressly that the requirements of Section 403 also apply to a RE’s compliance enforcement program, and (2) indicate whether Section 403 or Exhibit D applies in the event of an inconsistency between the two.

E. Inputs Into The RE Compliance Enforcement Process, As Well As The Composition Of Any RE Hearing Panel Or Committee Must Be Fair, Non-Discriminatory And Reflect Balanced Representation Of All Industry Segments

Under proposed Section 403(7) of the Rules of Procedure, NERC would permit RE staff to seek input from RE members in connection with investigations, audits and compliance activities, whether as part of teams or committees.¹⁶ RE members providing input cannot have any conflict of interest or financial interest in the outcome of their activities. Further, a RE board or compliance panel

¹⁶ However, only RE staff would have the authority to impose penalties or determine non-compliance as an initial matter.

reporting directly to the board (with appropriate recusal procedures) will be vested with the authority to conduct compliance hearings.¹⁷ The RE hearing process must culminate with the RE board or a balanced committee established by the RE board as the final adjudicator.¹⁸

In addition to the “no conflict of interest and no financial interest” requirements proposed by NERC in Section 403(7), the Commission should also impose a requirement that any procedure for incorporating peer inputs from RE members must be fair, balanced, non-discriminatory and provide an opportunity for input from **all** industry segments. Absent such a formal requirement, the potential exists for there to be “imbalanced” inputs into the compliance enforcement process which could, in turn, create the perception that the process is not objective or is otherwise unfair.

Further, if RE enforcement hearings are conducted by, and decisions made by, a balanced compliance committee or panel, the Commission should modify Sections 403(4) and (19) of NERC’s Rules of Procedure to require that such committee or panel include representation from **all** industry segments. Such panel/committee will essentially be performing an adjudicatory function. Thus, it is necessary that the hearing process, in addition to including appropriate recusal procedures,¹⁹ reflect balanced representation to ensure fair, independent and nondiscriminatory process and prevent control, or even the appearance of

¹⁷ NERC Rules of Procedure, Section 403(4).

¹⁸ *Id.*, Section 403(19).

¹⁹ The CAISO notes that Section 403(4) expressly provides for a recusal process, but Section 403(19) does not expressly include such a requirement. To the extent the “committee” contemplated in Section 403(19) is different than the “panel” contemplated in Section 403(4), NERC should expressly include a recusal requirement in Section 403(19).

control, by any industry segment. Requiring representation of **all** industry segments in any compliance panel or committee is also consistent with FPA Section 215(c)(2)(A) and (D) which mandates that the ERO and REs have rules that “assur[e] ... balanced decisionmaking in any ...committee or subordinate organizational structure.”

F. RE Boards Must Be Independent, And ISOs/RTOs Must Be Adequately Represented With Respect To Governance And In All Committee And Subordinate Organizational Structures

Exhibit D to the *pro forma* RDA requires that the RE be governed by an independent board, a balanced stakeholder board or a combination of the two. In addition, the *pro forma* RDA requires that the RE have (1) established rules that assure its independence from the owners, operators and users of the bulk power system while assuring fair stakeholder representation in the selection of its directors, and (2) established rules that assure balance in its decision making committees and subordinate organizational structures.

The CAISO remains extremely concerned about the governance of REs and the role of ISOs and RTOs in the RE governance and standards setting processes.²⁰ The CAISO recognizes that the Commission has previously stated that it will rule on these types of issues when REs file their RDAs with the Commission (which will not happen until NERC is certificated as the ERO and

²⁰ In its Comments on the Notice of Proposed Rulemaking filed on October 7, 2005 in Docket No. RM05-30, the CAISO set forth its views as to why (1) REs must be independent at all levels, and (2) ISOs and RTOs must be treated as a separate industry segment for purposes of selecting the RE's board and representation on all committees and subordinate structures. CAISO Comments at 3-7. The CAISO's comments also included recommendations for ensuring the independence of REs. *Id.* 8-10.

executes RDAs with the REs).²¹ Order No. 672 at P 727. In light of this, the CAISO will only briefly summarize its concerns about RE governance in this filing. The CAISO will file more detailed comments on this issue, as appropriate, when REs file their RDAs with the Commission and propose specific governance and committee structures and procedures.

The CAISO supports establishment of RE boards that are fully independent. Such a requirement will ensure that a board's focus is on the interests of a well-functioning, reliable Bulk Power System, not representation of particular market participants or classes of market participants. Just as independence is a bedrock principle for RTOs and ISOs, it must be a bedrock principle for RROs. The CAISO believes that if a RE board is not a fully independent board, then it should at least be a hybrid board in which the majority of the board seats are held by independent trustees.²²

Also, ISOs and RTOs must be separately represented on any RE stakeholder board or hybrid board, and if the RE board is an independent board, then ISOs and RTOs must be a standalone industry segment -- and not be

²¹ In Order No. 672, the Commission declined to give further guidance regarding the statutory criteria for RE governance. Instead, the Commission indicated that it would interpret the statutory criteria in light of the facts presented in each RE's proposed delegation agreement. Order No. 672 at P 727. Accordingly, the Commission ruled that it was premature to make any finding on RE governance in Order No. 672.

²² Another important consideration for RE boards is the size of the Board. The CAISO is concerned that if an RE board has too many members it could become unwieldy and/or unmanageable. The CAISO submits that an RE board should not exceed 10-12 members. Also it is important that the RE be independent at all levels, including the staff level. The RE should have an independent professional and technical staff that reports directly to the RE board, not to stakeholder committees. The staff should be responsible for preparing and presenting proposed standards to the board and should be responsible for handling enforcement matters and making recommendations. This will help ensure that the RE recommends reliability standards and undertakes compliance/enforcement actions in an independent, fair and non-discriminatory manner.

grouped with any other segment -- for purposes of electing such board. ISOs and RTOs are independent by design and have a legitimate, unique and significant interest in reliability in general and in the development and enforcement of Reliability Standards in particular. Also, unlike any other industry group, ISOs and RTOs are charged with the dual responsibility of maintaining reliable electric transmission system operations and operating organized markets. The unique interest of ISOs and RTOs cannot be adequately represented by any other industry segment. Thus, ISOs and RTOs should not be included in other stakeholder segments for purposes of electing board members and developing and recommending reliability standards.

Also, there should be some correlation between the megawatts of load served by a transmission operator (or such transmission operator's responsibility for a RE's costs) and representation on the RE board (if the board is not an independent board). Some mechanism should exist to ensure that transmission operators that serve a significant portion of the load in a region are adequately represented in the governance and standards setting processes.

The CAISO urges the Commission to follow these principles when it addresses the RDAs filed by REs.

V. CONCLUSION

For the foregoing reasons, the CAISO respectfully requests that the Commission permit it to intervene, and that the CAISO be accorded full party status in this proceeding. The CAISO also requests that the Commission act on NERC's ERO application in a manner consistent with the discussion herein.

Respectfully submitted,

/s/ Anthony J. Ivancovich

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Counsel for the California Independent
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Date: May 4, 2006

CERTIFICATE OF SERVICE

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

Dated at Folsom, CA, this 4th day of May 2006

/s/ Anthony J. Ivancovich
Anthony J. Ivancovich