

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

Duke Energy Moss Landing, LLC)	Docket Nos. ER98-2680-000
Duke Energy Morro Bay, LLC)	ER98-2681-000,
Duke Energy Oakland, LLC)	ER98-2682-000,
Duke Energy South Bay, LLC)	ER99-1785-000,
)	(unconsolidated)

**REQUEST FOR TREATMENT OF FILINGS
AS MOTION TO INTERVENE OR, IN THE ALTERNATIVE,
AS A COMPLAINT**

On June 8, 2001, the California Independent System Operator Corporation ("ISO") filed Emergency Motions to Terminate Market-Based Rate Authority in the above-identified dockets. It has subsequently been brought to the ISO's attention that the ISO has not previously intervened in these dockets. Therefore, the ISO respectfully requests that the Commission treat the ISO's Emergency Motions as Motions to Intervene Out-of-Time pursuant to Section 214 of the Commission's Rules and Regulations, 18 C.F.R. § 385.214. Alternatively, the ISO requests that the Commission deem the ISO's Emergency Motions to be a complaint pursuant to Section 206 of the Federal Power Act, 16 U.S.C. § 824e.

The ISO's Emergency Motions set forth the ISO's interest in these proceedings and the public interest that is served by the ISO's intervention. Further, the ISO submits that there is good cause for allowing it to intervene out-of-time. The circumstances described in the ISO's Emergency Motions, which demonstrate graphically the potential for abuse of market-based rate authority for

Energy sales in California, were not readily apparent at the time these dockets were initiated. The abuses of market-power described in the Emergency Motions, however, have necessitated the ISO's intervention in order to seek appropriate relief from the Commission.

In the event that the Commission does not find good cause to allow intervention out of time, the ISO requests that the Commission deem the Emergency Motions to be complaints under Section 206 of the Federal Power Act. The Emergency Motions set forth the basis for a determination that the market-based rate authorities granted in the above-identified dockets are not just and reasonable.

Respectfully submitted,

Charles F. Robinson
Vice President and General Counsel
Roger E. Smith, Regulatory Counsel
The California Independent
System Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: 916-351-4400
Fax: 916-351-2350

Edward Berlin
J. Phillip Jordan
Michael E. Ward
Julia Moore
Swidler Berlin Shereff Friedman, LLP
3000 K St., NW Suite 300
Washington, D.C. 20007
Tel: 202-424-7588
Fax: 202-424-7645

Counsel for the California Independent
System Operator Corporation

Dated: July 3, 2001

July 3, 2001

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Duke Energy Moss Landing, LLC, Docket Nos. ER98-2680-000 *et al.*

Dear Secretary Boergers:

Enclosed please find an original and fourteen copies of the Request for Treatment of Filings as Motion to Intervene or, in the Alternative, as a Complaint on behalf of the California Independent System Operator Corporation.

Also enclosed are two additional copies of this filing. Please stamp the additional copies with the date and time, and return them to the messenger. Thank you for your assistance.

Yours truly,

Michael E. Ward
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Washington D.C. 20007

Counsel for the California Independent
System Operator Corporation

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that I have today served the foregoing document on all parties on the designated official service list compiled by the Secretary in this proceeding by First Class mail, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. on this 3rd day of July, 2001.

Michael E. Ward
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Washington, D.C. 20007