

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

**Duke Energy South Bay )**

**Docket No. ER02-239-000**

**MOTION OF THE CALIFORNIA INDEPENDENT  
SYSTEM OPERATOR CORPORATION TO ESTABLISH A  
JANUARY 1, 2002 REFUND DATE**

In accordance with Rule 212 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 (2001), the California Independent System Operator Corporation (ISO) respectfully requests that the Commission establish a January 1, 2002 refund date in the above-captioned docket, in which Duke Energy South Bay (Duke SB) filed an annual update with proposed changes to its Must Run Service Agreement (MRSA) with the ISO.

On November 1, 2001, Duke SB submitted an annual update filing (Duke SB filing) to the Commission to comply with certain provisions of the Reliability Must-Run (RMR) contracts between Duke SB and the ISO. In the Filing, Duke SB proposed changes to the cost information that serves as the basis for certain formula rates payable under RMR contracts. On November 23, 2001, the ISO filed a motion to intervene and protest in this matter.

In the November 23 motion to intervene and protest, the ISO noted that certain proposed rates are subject to the outcome in a separate proceeding, Docket ER02-10-000, and noted some additional problems requiring correction in the Duke SB filing. The November 23 motion to intervene and protest suggested that rates subject to the outcome of ER02-10-000 should either be rejected, be

accepted subject to refund consistent with the outcome of ER02-10-000, or should be severed from this proceeding and consolidated with ER02-10-000. In this motion, the ISO urges the Commission to establish a January 1, 2002 refund date for all rates under consideration in this proceeding. This step is necessary to ensure that the ISO, Responsible Utilities and consumers do not pay unduly elevated rates while issues associated with the Duke SB filing are resolved. The ISO is aware of at least one case in which issues associated with a filing of the instant type for 2001 are still outstanding, ER01-812-001. To ensure that the ISO, Responsible Utilities and consumers are protected in the case of delays in resolution of outstanding issues in this proceeding, the ISO respectfully requests the Commission to establish a January 1, 2002 refund date.

WHEREFORE, the ISO respectfully requests that the Commission establish a January 1, 2002 refund date in this proceeding.

Respectfully submitted,

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Counsel for the California Independent  
System Operator Corporation

## **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, on this 13th day of December, 2001.

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December 13, 2001

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

Re: Duke Energy South Bay,  
Docket No. ER02-239-000

Dear Secretary Boergers:

Enclosed please find an electronic filing of the Motion for Establishment of a January 1, 2002 Refund Date of the California Independent System Operator Corporation. Thank you for your attention to this filing.

Respectfully submitted,

Jeanne M. Solé  
Counsel for the California Independent  
System Operator Corporation