

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Duke Energy Oakland

)

Docket No. ER02-240-000

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

In accordance with Rule 212 of the Federal Regulatory Energy 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 Oakland (Duke) filed an annual update with proposed changes to its Must Run Service Agreement (MRSA) with the ISO.

On November 1, 2001, Duke submitted an annual update filing (Duke Filing) to the Commission to comply with certain provisions of the Reliability Must-Run (RMR) contracts between Duke and the ISO. In the filing, Duke proposed changes to the cost information that serves as the basis for certain formula rates payable under RMR contracts. On November 21, 2001, the ISO filed a joint motion with Pacific Gas and Electric Company ("PG&E") to intervene and protest in this matter.

In the November 21 motion to intervene and protest, the ISO and PG&E 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 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 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,

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served electronically 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.

Jeanne M. Solé
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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 Oakland,
Docket No. ER02-240-000

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