

**RETURN COPY**

**SWIDLER BERLIN SHEREFF FRIEDMAN LLP**

THE WASHINGTON HARBOUR  
3000 K STREET, NW, SUITE 300  
WASHINGTON, DC 20007-5116  
TELEPHONE (202) 424-7500  
FACSIMILE (202) 424-7647  
WWW.SWIDLAW.COM

MICHAEL N. KUNSELMAN  
DIRECT DIAL: (202) 295-8465  
FAX: (202) 424-7643  
MNKUNSELMAN@SWIDLAW.COM

OFFICE OF THE SECRETARY

03 JUL 16 PM 12:41

FEDERAL ENERGY  
REGULATORY COMMISSION

NEW YORK OFFICE  
THE CHRYSLER BUILDING  
305 LEXINGTON AVENUE  
NEW YORK, NY 10174  
TEL. (212) 973-0111  
FAX (212) 891-9598

July 16, 2003

Hon. Magalie Roman Salas, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: *Enron Power Marketing, Inc. et al.*, Docket Nos. EL03-180 et al.  
California Independent System Operator Corporations Motion  
to Intervene**

Dear Secretary Salas:

Enclosed for filing are one original and fourteen copies of the Motion to Intervene of the California Independent System Operator Corporation submitted in the above-captioned proceeding. Also enclosed are two extra copies of the motion to be time/date stamped and returned to us by the messenger. Thank you for your assistance. Please contact the undersigned if you have any questions regarding this filing.

Respectfully submitted,



Michael Kunselman

Counsel for the California  
Independent System Operator  
Corporation

Enclosures

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

Enron Power Marketing, Inc.	)	Docket No. EL03-180-000
and Enron Energy Services Inc.	)	
Aquila, Inc.	)	Docket No. EL03-181-000
City of Glendale, California	)	Docket No. EL03-182-000
City of Redding, California	)	Docket No. EL03-183-000
Colorado River Commission	)	Docket No. EL03-184-000
Constellation Power Source, Inc.	)	Docket No. EL03-185-000
Coral Power, LLC	)	Docket No. EL03-186-000
El Paso Merchant Energy, L.P.	)	Docket No. EL03-187-000
Eugene Water and Electricity Board	)	Docket No. EL03-188-000
Idaho Power Company	)	Docket No. EL03-189-000
Koch Energy Trading, Inc.	)	Docket No. EL03-190-000
Las Vegas Cogeneration, L.P.	)	Docket No. EL03-191-000
MIECO	)	Docket No. EL03-192-000
Modesto Irrigation District	)	Docket No. EL03-193-000
Montana Power Company	)	Docket No. EL03-194-000
Morgan Stanley Capital Group	)	Docket No. EL03-195-000
Northern California Power Agency	)	Docket No. EL03-196-000
PacifiCorp	)	Docket No. EL03-197-000
PECO	)	Docket No. EL03-198-000
Powerex Corporation	)	Docket No. EL03-199-000
(f/k/a British Columbia Power Exchange Corporation)	)	
Public Service Company of New Mexico	)	Docket No. EL03-200-000
Sempra Energy Trading Corporation	)	Docket No. EL03-201-000
TransAlta Energy Marketing (U.S.) Inc. and TransAlta Energy Marketing (California), Inc.	)	Docket No. EL03-202-000
Valley Electric Association, Inc.	)	Docket No. EL03-203-000 (Consolidated)

**MOTION TO INTERVENE  
OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION**

Pursuant to Rule 214 (18 CFR 385.214) of the Federal Energy Regulatory Commission's ("the Commission") Rules of Practice and Procedure, and the Commission's June 25, 2003 "Order to Show Cause Concerning Gaming and/or

Anomalous Market Behavior Through the Use of Partnerships, Alliances, or Other Arrangements and Directing Submission of Information,” 103 FERC ¶ 61,346 (2003) (“Partnership Order”), the California Independent System Operator Corporation (“ISO”), by and through its undersigned counsel, hereby moves to intervene in this proceeding. In support therefor, the ISO states as follows:

## **I. COMMUNICATIONS**

Please address communications concerning this filing to the following persons:

Charles F. Robinson  
General Counsel  
Gene Waas  
Regulatory Counsel  
Beth Ann Burns  
Litigation Counsel  
The California Independent System  
Operator Corporation  
151 Blue Ravine Road  
Folsom, CA 95630  
Tel: (916) 608-7135  
Fax: (916) 608-7296

J. Phillip Jordan  
Michael Kunselman  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N.W., Suite 300  
Tel: (202) 424-7500  
Fax: (202) 424-7643

## **II. BACKGROUND**

In the Partnership Order, the Commission found there to be evidence that Enron Power Marketing and the other entities named in these consolidated dockets “worked in concert through partnerships, alliances or other arrangements to engage in activities that constitute gaming and/or anomalous market behavior” in violation of the ISO and California Power Exchange (“PX”) Tariffs during the period January 1, 2001 through June 20, 2001. Therefore, the Commission ordered these entities to show cause, in an evidentiary hearing before an

administrative law judge (“ALJ”) why this alleged behavior did not violate the ISO and PX Tariffs. The Commission also directed the ALJ to “hear evidence and render findings and conclusions quantifying the full extent to which the Partnership Entities may have been unjustly enriched as a result of their conduct.” Partnership Order at P 2. The Commission stated that the ALJ could recommend the monetary remedy of disgorgement of unjust profits as well as any other additional, appropriate non-monetary remedies.

### **III. BASIS FOR MOTION TO INTERVENE**

The ISO is a non-profit public benefit corporation organized under the laws of the State of California and responsible for the reliable operation of a grid comprising the transmission systems of Pacific Gas and Electric Company, San Diego Gas & Electric Company, the City of Vernon, California, and Southern California Edison, as well as for the coordination and monitoring of the competitive electricity market in California.

As the grid operator and market monitor, the ISO has a direct and substantial interest in this proceeding that cannot be adequately represented by other parties. Moreover, it is the ISO’s Tariff that the Commission has found may have been violated by the activities and behavior described in the Partnership Order, and much of the data and analysis concerning the transactions at issue was provided by the ISO. Therefore, the participation of the ISO is in the public interest and should be granted.

#### IV. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission permit it to intervene, and that it be accorded full party status in this proceeding.

Respectfully Submitted,



J. Phillip Jordan

Charles F. Robinson  
General Counsel  
Gene Waas  
Regulatory Counsel  
Beth Ann Burns  
Litigation Counsel  
The California Independent System  
Operator Corporation  
151 Blue Ravine Road  
Folsom, CA 95630  
Tel: (916) 608-7135  
Fax: (916) 608-7296

Michael Kunselman  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N.W., Suite 300  
Tel: (202) 424-7500  
Fax: (202) 424-7643

## CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document to be served by first class mail, postage prepaid, upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 16<sup>th</sup> day of July, 2003.

  
Michael Kunselmen