



November 12, 2004

**VIA ELECTRONIC FILING**

The Honorable Magalie R. Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: Duke Energy South Bay, LLC  
Docket No. ER05-128-000**

Dear Secretary Salas:

Transmitted herewith for electronic filing in the above-referenced proceeding is the Motion to Intervene and Request for 45-Day Comment Period of the California Independent System Operator Corporation.

Thank you for your attention to this matter.

Yours truly,

**/s/ Sidney L. Mannheim**

Sidney L. Mannheim  
Regulatory Counsel

Counsel for the California Independent  
System Operator Corporation

Enclosure

cc: Service List

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

**Duke Energy South Bay, LLC                    )           Docket No. ER05-128-000**

**MOTION TO INTERVENE AND REQUEST FOR 45-DAY COMMENT PERIOD  
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 November 4, 2004 Notice of Filing, the California Independent System Operator Corporation (“ISO”) submits this Motion to Intervene in the above captioned proceeding. In support thereof, the ISO states as follows:

**I.       DESCRIPTION OF THE PROCEEDING**

On October 29, 2004, Duke Energy South Bay, LLC (“DESB”) submitted, pursuant to Section 205 of the Federal Power Act (“FPA”), its annual update filing proposing revised rate schedule sheets to its Reliability Must Run Agreement (“RMR Agreement”)<sup>1</sup> with the ISO. DESB also submitted an informational filing describing proposed changes to its Annual Fixed Revenue Requirements under its RMR Agreement.

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<sup>1</sup> Because the generation unit(s) covered by this agreement must operate at certain times for the reliability of the transmission grid, they are referred to as "reliability must-run" or RMR Units. Other capitalized terms that are not defined in this filing have the same meaning set forth in the RMR Agreement or in the Master Definitions Supplement, Appendix A to the ISO Tariff.

## **II. DESCRIPTION OF THE ISO AND COMMUNICATIONS**

The ISO is a non-profit public benefit corporation organized under the laws of the State of California with a principal place of business at 151 Blue Ravine Road, Folsom, CA 95630. The ISO is the Control Area operator responsible for the reliable operation of the electric grid comprising the transmission systems of a number of utilities including San Diego Gas & Electric Company (“SDG&E”), as well as the coordination of the ancillary services and real-time electricity markets in California.

The ISO requests that all communications and notices concerning this motion and these proceedings be provided to:

Sidney L. Mannheim  
Regulatory Counsel  
California Independent System  
Operator Corporation  
151 Blue Ravine Road  
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Robert C. Kott  
Manager of Reliability Contracts  
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## **III. ISO’S INTEREST**

DESB’s RMR Units are located within SDG&E’s transmission system and are needed to maintain the reliability of the ISO Controlled Grid. As the Control Area operator and as the counter party to the RMR Agreement, the ISO has a unique interest in any Commission proceeding that affects an RMR Agreement. Accordingly, the ISO has a direct and substantial interest in this proceeding and requests that it be permitted to intervene. Because no other party can

adequately represent the ISO's interests in this proceeding, the ISO's intervention is in the public interest and should be granted.

#### **IV. REQUEST FOR 45-DAY COMMENT PERIOD**

The Notice of Filing specifies a comment date of November 19, 2004, twenty-one days from the date of the filing, the Commission's standard comment period. Schedule F of the RMR Agreement, however, provides interested parties with 45 days to protest informational filings submitted pursuant to Part B of Article I of Schedule F. Accordingly, the ISO requests that the Commission establish a 45-day comment period requiring comments and protests to be filed on or before December 13, 2004.

#### **V. CONCLUSION**

For the foregoing reasons, the ISO respectfully requests that the Commission grant this Motion to Intervene and make the ISO a party in the above-caption proceeding with full rights of participation and to establish December 13, 2004 as the comment date.

Dated: November 12, 2004

Respectfully submitted

**Sidney L. Mannheim**  
Sidney L. Mannheim  
California Independent System  
Operator Corporation  
151 Blue Ravine Road  
Folsom, CA 95630

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 12<sup>th</sup> day of November, 2004 caused to be served a copy of the forgoing document upon all parties listed on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

**/s/ Sidney L. Mannheim**

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