

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

**Termoelectrica, U.S., LLC**

**Docket Nos. ER03-175-000  
ER03-175-001**

**MOTION TO INTERVENE OUT-OF-TIME AND COMMENT 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 15, 2002 Notice of Filing, the California Independent System Operator Corporation (“ISO”)<sup>1</sup> hereby moves to intervene out-of-time and comment in the above-captioned proceeding. In support thereof, the ISO states as follows:

**I. COMMUNICATIONS**

Please address communications concerning this filing to the following persons:

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<sup>1</sup> Capitalized terms not otherwise defined herein are defined in the Master Definitions Supplement, Appendix A to the ISO Tariff, as filed August 15, 1997, and subsequently revised.

## **II. BACKGROUND**

On November 12, 2002, Termoelectrica U.S., LLC (Termo) tendered for filing its application for market based rate authority and a description of the generator interconnection facilities (“Interconnection Line”) associated with the Termoelectrica de Mexicali S. de R. L. de C.V. generation facility (“Mexicali Facility”) in Mexicali Valley in the state of Baja California, Mexico and requested waiver of the requirements of Orders Nos. 888 and 889.

By its Notice issued November 15, 2002, the Commission established December 3, 2002 as the date motions to intervene were to be filed in the above-captioned proceeding.

## **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 & Electric Company, Southern California Edison Company, San Diego Gas & Electric Company (SDG&E) and the Cities of Vernon, Anaheim, Azusa, Banning and Riverside, California. Because SDG&E is a Participating Transmission Owner and its revenue requirement is reflected in the ISO’s Transmission Access Charge and because Termo is affiliated with SDG&E the ISO has a unique interest in any Commission proceeding concerning the issues raised in the captioned proceeding.

Due to the press of a number of significant regulatory matters, the ISO was unable to file its intervention and comments correcting a technical error in the Commission's order in this proceeding in a timely manner. The ISO requests that it be allowed to intervene out-of-time because it has a significant interest in this matter, and its unique interest cannot be adequately represented by any other party. A late-filed intervention by the ISO should not prejudice any party or delay the proceedings herein because such proceeding is in its early stages and the Commission has just granted an extension in these proceedings<sup>2</sup>.

#### **IV. COMMENTS**

On January 10, 2003, the Commission issued an order in the captioned proceeding conditionally accepting Termo's request for market-based rate authority, accepting its proposed Code of Conduct and denying waiver of Commission Orders 888 and 889 as well as denying its request to make affiliate sales. Paragraph 28 of the Commission's order states the following:

28. We will deny Termoelectrica's request for waiver. Because Termoelectrica is affiliated with SDG&E, Termoelectrica's interconnection transmission line connects directly to SDG&E's transmission facilities and SDG&E has an OATT on file with the Commission, we conclude that Termoelectrica's interconnection transmission line is a part of and covered by SDG&E's OATT. In addition, since SDG&E has conveyed operational control over its transmission facilities to the California ISO, the California ISO's OATT and OASIS will cover Termoelectrica's interconnection transmission line. We find, therefore, that Termoelectrica has not justified waiver of Order No. 888 and the OASIS requirement of Order no. 889.

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<sup>2</sup> On March 21, 2003, the Commission granted Termo an extension to comply with the requirements of Orders 888 and 889 until fifteen days after the Commission issues an order on rehearing in this proceeding.

The Commission is correct that Termo is affiliated with SDG&E, that Termo's generation tie line does connect to SDG&E's transmission facilities and that SDG&E has an Open Access Transmission Tariff (OATT) on file with the Commission. However, the Commission should be aware that none of Termo's facilities have been turned directly or indirectly over to the California ISO's operational control. Thus, the California ISO's OATT and OASIS cannot cover Termo's interconnection transmission line. Furthermore, even if this transmission was turned over to the California ISO, the ISO would not post the availability for this transmission on the ISO's OASIS since this transmission, which connects the Termo Generating Units to the Imperial Valley Substation, would not be considered an Inter-Zonal interface.

**V. CONCLUSION**

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

Respectfully submitted,

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## **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, this 9<sup>th</sup> day of April, 2003.

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Gene L. Waas



April 9, 2003

The Honorable Magalie Roman Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

**Re: Termoelectrica U.S., LLC  
Docket Nos. ER03-175-000 & ER03-175-001**

Dear Secretary Salas:

Enclosed please find an electronic filing of the Motion to Intervene Out-of-Time and comment of the California Independent System Operator Corporation. Thank you for your attention to this filing.

Respectfully submitted,

Gene L. Waas

Counsel for the California Independent  
System Operator Corporation