



October 6, 2004

BY ELECTRONIC TRANSMISSION

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

**Re: Duke Energy Marketing America, LLC
Docket No. ER03-956-002**

Dear Secretary Salas:

Enclosed for electronic filing please find Motion for Leave to File Answer and Answer of the California Independent System Operator Corporation in the above-referenced docket.

Thank you for your assistance in this matter.

Very truly yours,

/s/ Anthony J. Ivancovich

Anthony J. Ivancovich

Counsel for the California Independent
System Operator Corporation

Enclosures

cc: All parties of record

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

Duke Energy Marketing America, LLC) Docket No. ER03-956-002

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR**

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213 (2004), the California Independent System Operator Corporation ("ISO") hereby requests leave to file and files its answer to Duke Energy Marketing America, LLC's ("DEMA") September 22, 2004 answer to the ISO's August 24, 2004 comments on DEMA's August 11, 2004 Triennial Market Power Update.

I. MOTION FOR LEAVE TO FILE ANSWER AND ANSWER:

The ISO respectfully requests leave to file this answer to DEMA's answer in the above-caption proceeding because DEMA significantly mischaracterizes the analysis submitted by the ISO.

DEMA's answer incorrectly asserts that the ISO's analysis of actual available supplies of imports for each season is based on import data for "a single day (i.e. the seasonal minimum peak day)," and that the ISO's analysis "assumes that, to the extent suppliers did not offer their capacity to the California ISO on the single day when the California ISO experienced its lowest seasonal peak, those suppliers do not exist and cannot compete to serve California ISO

loads”¹ However, the ISO report clearly indicates that the amount of actual available supply of imports for each season was not based on the seasonal minimum peak day, but rather on import data for super peak weekday hours during each season. As stated in the ISO Report:²

For the Market Share analysis, seasonal values on available supply from rival suppliers were based on hourly averages for all weekdays (excluding NEC holidays) Hours Ending 13 through 20. These peak hours were used to provide results that are indicative of overall market conditions and competitiveness during the eight highest load hours of each weekday.

Since the ISO’s analysis of available was based only on these super peak weekday hours, the ISO believes this analysis accurately portrays the amount of supply actually available in the ISO market for purposes of calculating market shares of various participants.

¹ DEMA Answer p. 16, See also *Response of J. Stephen Henderson*, p. 4 dated September 22, 2004, submitted in support of DEMA’s answer.

² *Review of Market Power Analysis Submitted by Duke Energy For CAISO Market*, Prepared by Dr. Eric W. Hildebrandt, California Independent System Operator August 24, 2004, page 4. See also Table 2, Note 2, p. 7.

II. CONCLUSION:

For the above-stated reasons, the ISO requests that the Commission accept the ISO's answer to DEMA's answer. The ISO believes that its answer corrects the factual inaccuracies contained in DEMA's answer and, as such, will aid the Commission in understanding this case.

Respectfully submitted,

/s/ Anthony J. Ivancovich

Anthony J. Ivancovich
Senior Regulatory Counsel
California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
916-608-7135

CERTIFICATE OF SERVICE

I hereby certify that I have on this 6th day of October 2004, served copies of the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/ Geeta Tholan
Geeta Tholan