

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

Oakland Power Company, LLC)

Docket No. ER22-290-000

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

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. §§ 385.212 and 385.214, the California Independent System Operator Corporation (“CAISO”) hereby submits a motion to intervene and protest in response to the October 29, 2021 filing by Oakland Power Company, LLC (“Oakland”) of a Reliability Must-Run Service Agreement for 2022 between Oakland and the CAISO (“Agreement”). The CAISO requests the Commission accept the Agreement for filing, permit it to become effective on January 1, 2022, the date requested by Oakland, subject to refund, and set the filing for hearing and settlement procedures.

I. MOTION TO INTERVENE

The CAISO is a non-profit public benefit corporation organized under the laws of the State of California. The CAISO is the balancing authority responsible for the reliable operation of the electric grid comprising the transmission systems of a number of utilities. As part of its mandate to operate the electric grid, the CAISO’s Tariff contains provisions that give it the authority to designate units as necessary for reliability purposes and enter into reliability must-run agreements. This gives the CAISO an interest in this proceeding that cannot be represented adequately by any

other party. Thus, the CAISO requests that the Commission permit it to intervene in this proceeding.

The CAISO requests that communications and notices concerning this motion and these proceedings be provided to:¹

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II. BACKGROUND AND DESCRIPTION OF PROCEEDING

The CAISO is responsible for the reliability of the CAISO controlled grid. One tool the CAISO has to ensure reliability is reliability must-run agreements (“RMR Agreements”). The Oakland Power Plant is a 110 MW jet fuel-fired, multi-unit combustion turbine peaker, located in Oakland, California (the “Facility”) that has been operating since approximately 1978.² Of particular relevance here, the Facility has been operating under an RMR Agreement with the CAISO that has been extended for more than 20 years, through multiple changes of ownership of the Facility.³ Unit 2

¹ These individuals are designated to receive service pursuant to Rule 203(b)(3) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.203(b)(3).

² The capacity was reduced from 165 MW to 110 MW when Unit 2 was shutdown to facilitate completion of the Oakland Clean Energy Project, a battery storage project.

³ The Facility was originally part of the Pacific Gas & Electric Co. (PG&E”) generation fleet. PG&E sold the Facility to Duke Energy Oakland LLC in the late 1990’s, which in turn sold it to LS

ceased operations at the end of 2020. At a CAISO Board of Governors meeting on September 23, 2021, the Board approved CAISO Management’s request to extend the Agreement for Units 1 and 3, which extends the Agreement to meet local reliability needs in the Oakland area through 2022.

On October 30, 2020, pursuant to Section 205 of the Federal Power Act,⁴ Oakland filed revisions to certain Rate Schedules of its RMR Agreement with the CAISO. Oakland also submitted an informational filing detailing proposed changes to its Annual Fixed Revenue Requirement (“AFRR”). pursuant to Schedule F of Oakland’s RMR Agreement, and an unexecuted RMR Agreement to cover 2021 operations, with a request that the filing be made effective January 1, 2021. The CAISO and Oakland have been engaged in discussions about some of the costs Oakland proposed to include in its 2021 rates, but the parties have been unable to reach agreement on final terms. More time is needed to conclude those discussions, which the CAISO hopes will result in a settlement. The terms of that settlement will define the starting point for the 2022 rates.

On October 29, 2021, Oakland filed revisions to certain Rate Schedules of its RMR Agreement with the CAISO. Oakland also submitted an informational filing detailing proposed changes to its AFRR. pursuant to Schedule F of Oakland’s RMR Agreement (“Schedule F Filing”), to cover 2022 operations, with a request that the filing be made effective January 1, 2022. As a result of the delay in reaching agreement on the 2021 rates, CAISO and Oakland did not have an opportunity to begin discussions

Power Group in 2006. Oakland acquired the LS Power Group assets, including the Oakland Facility, in 2007. Oakland merged with Vistra in 2018.

⁴ 16 U.S.C. 824d.

regarding the 2022 rates, and this resulted in Oakland filing its 2022 rate filing without any review by the CAISO. Further, Oakland failed to provide any supporting documentation required under the terms of the RMR Agreement to support the cost increases included in the 2022 rate filing.

III. PROTEST

The CAISO's local reliability studies continue to demonstrate that continued operation of Units 1 and 3 of the Facility is required to meet reliability requirements in the Oakland area. Thus, in accordance with its rights under the RMR agreement, the CAISO has once again extended the term of the Agreement through 2022. In response to this extension, Oakland has made its annual Schedule F Filing proposing changes to rates under the existing Agreement. Because the parties did not have an opportunity for consultation on the 2022 filing, and in particular on certain cost elements of that filing, the CAISO is filing this Protest. The CAISO requests that the Commission set Oakland's Schedule F Filing for hearing and establish settlement procedures so the parties can attempt to reach a final resolution on just and reasonable terms for the provision of RMR service.

Of particular concern to the CAISO are the unexplained increases in nearly every component of Oakland's proposed 2022 AFRR. The cost increases in the revenue requirement over 2021 levels total more than \$1 million, or 28%. This follows steady annual increases since 2019 that now total nearly more than 52% in the AFRR over four years, notwithstanding the shutdown of one of three units at the end of 2020.

The largest component of the increase in the proposed 2022 AFRR is an unexplained one-year increase of more than 46% in administrative and general costs.

Fixed operations and maintenance costs (excluding fuel) are rising a proposed 16% (or a total of a nearly 36% increase since 2019), again without any explanation offered by Oakland. The CAISO will be seeking information from Oakland about the sharp increase in the AFRR that Oakland is proposing.

Further, as Oakland explained in its filing, the parties have not yet reached a settlement on the 2021 rates. The final terms of the settlement, specifically with respect to capital improvements to the facility, could also affect 2022 rates.⁵ The 2021 rate settlement negotiations are actively underway, and all parties to the 2021 proceeding are hopeful a final settlement can be reached shortly, thus finalizing capital cost surcharges for 2022 rates.

The CAISO is continuing its review of Oakland's 2022 rate filing, and additional issues may come to light during its review that relate to costs legitimately recoverable under the RMR Agreement. The CAISO reserves the right to raise any such issues that may come to light.

IV. CONCLUSION

For the foregoing reasons, the CAISO requests that the Commission accept this motion and grant the CAISO party status, and accept the Agreement for filing, effective January 1, 2022, subject to refund, and set the matter for hearing and settlement procedures.

⁵ In footnote 9 to its transmittal letter, Oakland "reserves the right to revisit the classification of these expenses in the event that the efforts to resolve outstanding issues related to the pending filing for Contract Year 2021 are unsuccessful."

Respectfully submitted,

/s/ Mary Anne Sullivan

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Dated: November 18, 2021

CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of November 2021, caused to be served a copy of the forgoing Motion to Intervene and Comments upon all parties listed on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

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