

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

Greenleaf Energy Unit 2, LLC ) Docket No. ER20-1947-000

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

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. §§ 385.212 and 385.213, the California Independent System Operator Corporation (“CAISO”) hereby submits this motion for leave to answer and answer to the protests filed in this docket by the California Public Utilities Commission (“CPUC”) and by Pacific Gas and Electric Company (“PG&E”).

**I. BACKGROUND**

On June 1, 2020, Greenleaf Energy Unit 2, LLC (“Greenleaf”) filed an unexecuted Reliability Must-Run Service Agreement between Greenleaf and the CAISO (“Agreement”) for service from Greenleaf’s 49.5 MW natural gas-fired cogeneration facility (“Facility”). The CAISO filed a motion to intervene and comments requesting the Commission accept the Agreement for filing, permit it to become effective on the date requested by Greenleaf (June 2, 2020), subject to refund, and set the filing for hearing and settlement procedures. The CPUC and PG&E filed protests also requesting that the Commission accept the Agreement for filing, subject to refund, and set the matter for hearing or settlement.

## II. MOTION FOR LEAVE TO ANSWER

The CAISO respectfully requests leave to file this answer to the protests filed by the CPUC and PG&E. The Commission permits answers to protests for good cause shown, and, consistent with prior Commission decisions accepting such answers,<sup>1</sup> this answer will ensure a more complete and accurate record and assist the Commission in its decision-making process.

## III. ANSWER

As noted, the CAISO, the CPUC, and PG&E have all requested that the Commission accept the Agreement, subject to refund, and initiate settlement proceedings. The CAISO files this limited answer solely to address a few important policy issues. The CAISO continues to believe the settlement process is the best way to arrive at acceptable compensation for the necessary reliability service provided by the Facility, and it urges the Commission to initiate that process.

First, the concerns the CPUC and PG&E express regarding the “voluntary” nature of the Agreement do not support the unjust and unreasonable limitations they advocate regarding the compensation and contractual rights available to Greenleaf under the Agreement. The CPUC argues that Greenleaf should not be entitled to recover its full cost of service because it is a “voluntary” provider of RMR service.<sup>2</sup>

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<sup>1</sup> See, e.g., *California State University – Channel Islands Site*, 171 FERC ¶61,260, at P 21 (2020) (accepting an answer to protests that “provided information that assisted us in our decision-making process”); *Southwest Power Pool, Inc.*, 131 FERC ¶61,252, at P 19 (2010); *Duke Energy Kentucky, Inc.*, 122 FERC ¶61,182, at P 25 (2008).

<sup>2</sup> CPUC Protest, at p. 8 (“full cost compensation is only appropriate if designations are mandatory, not voluntary”).

PG&E also argues that Greenleaf's "voluntary" status allowed it to "circumvent the mandatory RMR process" giving Greenleaf "inappropriate negotiating leverage."<sup>3</sup>

It is important to recognize that Greenleaf's provision of RMR service is "voluntary" only because the CAISO cannot mandate that Greenleaf provide the service. Greenleaf, as a former Qualifying Facility ("QF") under the Public Utility Regulatory Policies Act of 1978 ("PURPA"), was not a CAISO participating generator subject to the CAISO tariff. As such, Greenleaf had no tariff or contractual obligation to comply with the tariff requirements regarding unit retirements as set forth in the CAISO tariff, and, unlike its authority regarding resources subject to the Participating Generator Agreement, the CAISO did not have authority to mandate that Greenleaf provide RMR service.

Therefore, when the CAISO determined after study that the Facility is required to meet the 2020 local capacity requirement in the Drum-Rio Oso sub-area of the Sierra local reliability area, and that there is no available alternative to mitigate the need for this resource,<sup>4</sup> the CAISO had to negotiate and attempt to obtain Greenleaf's agreement on the terms of service to ensure that Greenleaf would provide the RMR service necessary for maintaining reliability. Greenleaf was free to decline an RMR designation. Its RMR designation was not "voluntary" in the sense that Greenleaf did not seek the designation; Greenleaf did not come to CAISO desiring to provide power on a cost-of-service basis. It was the CAISO that reached out to Greenleaf because it has an immediate reliability need for the unit.

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<sup>3</sup> PG&E Protest, at pp. 5, 11.

<sup>4</sup> See Attachment F to Greenleaf's June 1 filing in this docket (March 18, 2020 Memorandum to CAISO Board of Governors).

As Greenleaf explained in its filing, although it was not obligated to do so, Greenleaf submitted a notice to the CAISO indicating its plan to remove the Facility from service. Both the CPUC and PG&E make much of the fact that Greenleaf's notice indicated its intention to "mothball" the Facility, rather than retire the Facility. They ignore that the CAISO's retirement procedure apply to both resource retirement and mothball. As noted, Greenleaf was not obligated to provide any notice and did so as a courtesy to the CAISO. Moreover, in the CAISO's discussions with Greenleaf regarding continuing operation of the Facility, Greenleaf made clear its intent was to permanently retire and dismantle the Facility. In any event, the CAISO has tariff authority to contract for needed reliability services under these circumstances from resources such as Greenleaf.<sup>5</sup> Nevertheless, Greenleaf submitted a notice, and the CAISO engaged in negotiations understanding that if Greenleaf did not agree to an RMR agreement, the Facility would not be available provide the required reliability service.

Second, the CAISO addresses certain rate-related issues raised by protesters. This year is the first time the CAISO has designated former QFs for reliability must run service. Each of the three facilities that the CAISO designated presents unique circumstances, but they are all the same in that none of them is like the previously CAISO-designated RMR units that were former utility-owned generating units that were sold to FERC-regulated independent power producers that were part of the

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<sup>5</sup> There are two relevant tariff provisions. First, the CAISO has tariff authority to designate resources needed for reliability service at any time based on technical studies. The owner of the resource is then obligated to propose rates, terms and conditions at file them with the Commission. CAISO Tariff Section 41.2. In addition, the CAISO has authority to negotiate contracts for energy or energy related services to ensure compliance with reliability criteria and to do so without a competitive solicitation, pursuant to CAISO Tariff Section 42.1.5.

California wholesale power market for many years.<sup>6</sup> None of these QFs or their owners benefited from the regulatory compact. These QFs were not able to file rate cases to recover additional costs, and ratepayers do not have an interest in the assets. Greenleaf was not a participating generator in the CAISO market at the time of RMR designation following the termination of their 1980's era PURPA contracts. Commission precedent applicable to formerly rate-based generating assets is not necessarily applicable to the recently designated QFs generally and to Greenleaf specifically.

For Greenleaf and other similarly situated units, entering into a reliability agreement involved the risks associated with becoming a participating generator subject to regulation. The significance of that risk varies depending on each facility's expected future. Because of the once-in-a lifetime move from unregulated generating facility to regulated facility, the CAISO agreed to support, for one time only, a termination provision that would allow those units to exercise the judgment they were entitled to exercise as unregulated units regarding whether the compensation they would recover is sufficient to cover their cost of service plus a reasonable return. Greenleaf's owner, Starwood Capital Group, cannot be expected to provide a service without a reasonable return, and the CAISO cannot force that on them. This termination provision will have no future applicability once Greenleaf accepts the RMR designation.

The one-time risk and Greenleaf's ability to reject an RMR designation justifies compensation that, to the extent necessary, incentivizes acceptance of the

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<sup>6</sup> See RMR agreement filings by California State University – Channel Islands Site in Docket No. ER20-1708-000 and by EF Oxnard LLC in Docket No. ER20-1917-000.

RMR designation and efficient operation of the unit going forward. Under these circumstances, it is appropriate to compensate Greenleaf for necessary transition costs incurred during a period when Greenleaf was earning no revenues and working with the CAISO on the multiple actions that were necessary to enable it to provide RMR service. It remained staffed and in a ready condition to be able to provide RMR service, assuming acceptable terms could be reached.

The CPUC argues that full cost-of-service is only appropriate for mandatory RMR designations and quotes a CAISO policy proposal regarding differences in the pricing of mandatory and voluntary services.<sup>7</sup> However, that quoted language was discussing two separate procurement programs: RMR and the voluntary CPM designation. The quoted language was for services provided from non-retiring CPM resources. It did not address, and said nothing about, the specific matters at issue in this proceeding, where CAISO has concluded that the continuing operation of a facility is necessary for reliability, but the facility is not a participating generator subject to the CAISO's authority to mandatorily designate an RMR resource.

In this instance, there is no justification for compensating an RMR generator at a level lower than the just and reasonable cost-of-service level to which a traditional participating generator RMR unit would be entitled. Indeed, for the Commission to conclude that resources like Greenleaf are not entitled to full cost-of-service, including a reasonable return, would make it unlikely that such resources would be willing to enter into an RMR contract and make it difficult, if not impossible, for the CAISO to keep in operation generation facilities required for

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<sup>7</sup> CPUC Protest, at p. 8.

reliability. Because the CAISO cannot force such units to remain in service, a “penny-wise, pound foolish” approach in situations like this will serve only to jeopardize grid reliability.

PG&E also requests the Commission establishing a Section 206 proceeding to determine whether the CAISO tariff is unjust and unreasonable with respect to the designation of RMR units that are not otherwise subject to the tariff.<sup>8</sup> The Commission should reject this unsupported request that is far beyond the narrow scope of this proceeding, which is to determine the just and reasonable rate for a single RMR unit. The justness and reasonableness of Greenleaf’s rate schedule as embodied in the filed Agreement is at issue in this Section 205 proceeding. CAISO seeks to arrive at a resolution in this case that meets CAISO’s multi-pronged obligations to consumers, to assure reliability of the grid using existing generation resources to the extent possible. Accepting the Agreement for filing and initiating settlement proceedings will provide the most efficient and effective means to achieve those ends.

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<sup>8</sup> PG&E Protest, at p. 5

#### IV. CONCLUSION

For the foregoing reasons and the reasons set forth in its June 22, 2020 Motion to Intervene and Comments, the CAISO requests that the Commission accept this answer, and accept the Agreement for filing, effective June 2, 2020, subject to refund, and set the matter for hearing and settlement procedures.

Respectfully submitted,

/s/ Mary Anne Sullivan

Mary Anne Sullivan  
John Lilyestrom  
HOGAN LOVELLS US LLP  
555 13th Street, N.W.  
Washington, D.C. 20004  
Tel: (202) 637-5600  
Fax: (202) 637-5633  
Maryanne.Sullivan@hoganlovells.com  
John.Lilyestrom@hoganlovells.com

Counsel for the  
California Independent System  
Operator Corporation

Dated: July 2, 2020

## CERTIFICATE OF SERVICE

I hereby certify that I have this 2nd day of July, 2020 caused to be served a copy of the forgoing Motion for Leave to Answer and Answer upon all parties listed on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

/s/John Lilyestrom  
John Lilyestrom  
HOGAN LOVELLS US LLP  
555 13th Street, N.W.  
Washington, D.C. 20004