



November 22, 2004

VIA ELECTRONIC FILING

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

**Re: Reliant Energy Etiwanda, Inc.
Docket No. ER05-138-000**

Dear Secretary Salas:

Transmitted herewith for electronic filing in the above-referenced proceeding is the Motion to Intervene, Provisional Protest 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**

Reliant Energy Etiwanda, Inc.) Docket No. ER05-138-000

**MOTION TO INTERVENE, PROVISIONAL PROTEST AND
REQUEST FOR 45-DAY COMMENT PERIOD OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.211 and 385.214, and the Commission’s November 8, 2004 Notice of Filing, the California Independent System Operator Corporation (“ISO”) submits this Motion to Intervene, Provisional Protest and Request for 45-Day Comment Period in the above captioned proceeding. In support thereof, the ISO states as follows:

I. DESCRIPTION OF THE PROCEEDING

On November 1, 2004, Reliant Energy Etiwanda, Inc. (“Etiwanda”) 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”)¹ with the ISO. Etiwanda also submitted an informational filing describing proposed changes to its Annual Fixed Revenue

¹ 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.

Requirements pursuant to Schedule F of its RMR Agreement. On November 18, 2004, Etiwanda filed the Information Package in support of its Schedule F filing. On November 19, 2004, Etiwanda submitted revised rate schedule sheets and a revised Information Package. As of the date of this intervention and protest, the Commission had not yet issued Notices of Filing for Etiwanda's November 18 and 19 supplemental submissions.

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 Southern California Edison Company ("SCE"), 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:

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III. ISO'S INTEREST

Etiwanda's RMR Units are located within SCE'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. PROVISIONAL PROTEST

The ISO has not had an adequate opportunity to review Etiwanda's three submissions in this docket, the most recent of which was filed on November 19, 2004. Moreover, the ISO had not had the full 45-days specified in Schedule F of the RMR Agreement to review Etiwanda's Schedule F submissions. However, as of the date of this pleading, the Commission has not issued any new Notices of Filing and has not responded to Etiwanda's request for a 45-day comment period. Accordingly, the ISO is filing this intervention and provisional protest on the comment date specified in the Commission's November 8 Notice of Filing. The ISO reserves its right to supplement this protest consistent with the 45-day comment period and any comment period provided by the Commission in response to Notices of Filing issued in response to Etiwanda's November 18 and 19 supplemental filings.

Over the past several weeks, the ISO and SCE have undertaken informal discovery related to Etiwanda's November 1, 2004 filing. To date, the ISO has identified the following problem. Etiwanda has failed to adequately justify the inclusion of approximately one million dollars in AFRR costs which are derived from year 2005 budget projections rather than the Schedule F mandated costs, which are required to be based on the test year ending June 30, 2004. To the extent any inappropriate items are included, the Etiwanda's proposed rates are unjust and unreasonable. Accordingly, the ISO urges the Commission to reject Etiwanda's submittals; or in the alternative, rule that the rates set forth in Etiwanda's filings have not been shown to be just and reasonable and suspend the rates subject to hearing and establish a refund date as of the proposed effective date of January 1, 2005.

IV. REQUEST FOR 45-DAY COMMENT PERIOD

The Notice of Filing specifies a comment date of November 21, 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 16, 2004. Etiwanda's November 18, 2004 supplemental filing similarly requests a 45-day comment period.

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 16, 2004 as the comment date. The ISO also urges the Commission to reject Etiwanda's submittals; or in the alternative, rule that the rates set forth in Etiwanda's filings have not been shown to be just and reasonable and suspend the rates subject to hearing and establish a refund date as of the proposed effective date of January 1, 2005.

Dated: November 22, 2004

Respectfully submitted

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CERTIFICATE OF SERVICE

I hereby certify that I have this 22nd 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
Sidney L. Mannheim