

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

Geysers Power Company, LLC) Docket No. ER98-495-019

**PROTEST AND MOTION TO INTERVENE 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 September 26, 2000 “Notice of Filing,” the California Independent System Operator Corporation (“ISO”) hereby protests and moves to intervene 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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II. BACKGROUND

On September 21, 2000, Geysers Power Company, LLC (“Geysers Power”) tendered for filing with the Commission a refund report in compliance with the Commission’s order approving Geysers Power’s Offer of Settlement (“Settlement”) filed in Docket Nos. ER98-441-005, *et al.*, on July 1, 1999. *Geysers Power Company, LLC*, 90 FERC ¶ 61,096 (2000). The refund report reflects a refund by Geysers Power to the ISO of \$21,404,165.66 for Geysers Power’s reliability must-run units (“RMR Units”) for the period June 1, 1999 through December 31, 1999.

III. MOTION TO INTERVENE

The ISO is a non-profit public benefit corporation organized under the laws of the State of California. It is responsible for the reliable operation of a grid comprising the transmission systems of Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company, as well as for the coordination of the competitive electricity market in California.

Approval of Geysers Power’s Settlement placed into effect changes to the payment for RMR services. As the sole purchaser of Geysers Power’s RMR services and recipient of any refunds resulting from the Settlement, the ISO has a substantial interest in this proceeding. Further, because the ISO is charged with the nondiscriminatory operation of the ISO Controlled Grid, the ISO’s participation in this proceeding is in the public interest. Accordingly, the ISO

requests that it be permitted to intervene in this proceeding with full rights of a party.

IV. PROTEST

Pursuant to the terms of the Settlement, all charges under Geysers Power's Revised RMR Rate Schedules affected by the terms of the Settlement's Fixed Option Payment Factor ("FOPF") provision were to be recalculated as though the revised FOPF were in place and effective on June 1, 1999. Any differences between the charges resulting from such recalculation and the charges previously paid for the period beginning June 1, 1999 and ending December 31, 1999, would result in a refund or surcharge, as appropriate, with interest computed at the Commission's refund rate.

The ISO has determined that, while Geysers Power has multiplied the numbers correctly in arriving at its refund figure, two percentages used by Geysers Power in making that calculation were incorrect, resulting in a smaller refund. The actual Availability Payment percentage is lower than what Geysers Power has reported. Also, the percentage used for the Non-Performance Penalty is not accurate. The error in these two percentages used in Geysers Power's calculation of the refund has resulted in a smaller overall refund figure.

The ISO has previously disputed the percentages used to calculate the Availability Payment and Non-Performance Penalty and Geysers Power has been aware of the dispute since July 1999. However, no steps have been taken by Geysers Power to correct either the Availability Payment or Non-Performance

Penalty percentages. The ISO is therefore requesting that the Commission set up a procedure to resolve this conflict.

V. CONCLUSION

Wherefore, for the foregoing reasons, the ISO respectfully requests that the Commission permit it to intervene, that it be accorded full party status in this proceeding, and that the Commission initiate a procedure by which the disagreement over percentages used in the calculation of the Settlement refund can be resolved so that the appropriate refund may be given to the Responsible Utility.

Respectfully submitted,

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Dated: October 12, 2000