

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

Pacific Gas and Electric Company) Docket No. ER03-94-000

**PROVISIONAL PROTEST OF CALIFORNIA INDEPENDENT SYSTEM
OPERATOR CORPORATION**

Pursuant to Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.214, and the Commission’s November 4, 2002 Notice of Filing, the California Independent System Operator Corporation (“ISO”) hereby files a provisional protest in this matter because Pacific Gas and Electric Company (“PG&E”) has not shown its proposed rates to be just and reasonable; the ISO has not had the time afforded in the Reliability Must Run (“RMR”) Agreement between the ISO and PG&E to undertake discovery related to PG&E’s proposed rates, and because in the limited time available, the ISO has already identified a number of problems in PG&E’s filing. In support thereof, the ISO states as follows:

I. BACKGROUND

On October 30, 2002, PG&E submitted an informational rate filing proposing rate revisions under its Reliability Must-Run (“RMR”) Agreements with the ISO (“PG&E Filing”).¹ The PG&E Filing relates to RMR Agreements as to the

¹ Because the generating units covered by these agreements must operate at certain times for the reliability of the transmission grid, they are referred to as “reliability must-run” or “RMR” units and the agreements covering them are referred to as “RMR Agreements.” Other capitalized terms that are not defined in this filing have the same meaning set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

following power plants: Helms Power Plant; Humboldt Bay Power Plant, Hunters Point Power Plant; San Joaquin Watershed. The filing was made to comply with the terms of a settlement agreement approved by the Commission² under which each RMR Owner is required to adjust rates annually, beginning with calendar year 2002, using the rate formula set forth in Schedule F of the RMR Agreement. The PG&E Filing is intended to comply with requirements in Schedule F of the RMR Agreement to provide information supporting updated Annual Fixed Revenue Requirements ("AFRR") and Variable O&M Rates. The PG&E Filing also seeks pursuant to Section 205 of the Federal Power Act ("FPA")³ to make certain updates to the rates that either 1) result from the new AFRR and Variable O&M Rates or 2) are otherwise provided for on annual basis in the RMR Agreement.

Schedule F establishes the procedures and methodology for determining the AFRR and Variable O&M Rates for facilities designated as RMR Units. The PG&E Filing is intended to provide updated cost information used in determining the AFRR and the Variable O&M Rates for its RMR Units to be effective January 1, 2003. In addition, the PG&E Filing updates a number of RMR Agreement Schedules: including the Contract Service Limits in Schedule A, the values in Tables B-1 through B-6 in Schedule B, and the Prepaid Start-up Charges in Schedule D.

On November 4, 2002, the Commission issued a "Notice of Filing" setting November 20, 2002, as the final date for interventions and protests. On

² *California Independent System Operator Corp.*, 87 FERC ¶ 61,250 (1999).

³ 18 USC § 824d.

November 14, 2002, the ISO filed a Joint Motion for Extension of Time for Protests along with the California Electricity Oversight Board ("EOB"). The motion indicated that it is not opposed by PG&E or the California Public Utilities Commission ("CPUC"). The Commission has not acted on this motion.

II. PROTEST

The ISO enters the following protective protest in case the Commission declines to grant the November 14 joint motion for extension of time to file protests. If the Commission grants the November 14 joint motion, the ISO will withdraw this protest and file any protest that remains appropriate on or before the new protest deadline.

A. Schedule F Information Package Discovery Rights

The Commission, in its November 4 Notice in this proceeding, allowed the standard 21 days for the filing of interventions and protests. However, Schedule F, Article I, Part B of the RMR Agreement specifies the time allowed for the Commission, the ISO and affected parties to review the proposed rates filed under Schedule F. Article I, Part B of Schedule F provides, in relevant part:

(i) discovery requests by the FERC staff and affected parties shall be made within 20 days of the filing, with responses by the Owner due within 35 days of the filing, and (ii) protests, if any, by affected parties shall be filed with the FERC within 45 days of the filing.

The ISO has not had the time accorded by Schedule F to undertake discovery. Yesterday, the California Public Utilities Commission ("CPUC") submitted to PG&E discovery requests that the ISO assisted in compiling, however responses are not due for another fourteen days. Without the additional information sought

by the CPUC and the ISO, the ISO has not been able to confirm whether or not the rates filed by PG&E are just and reasonable, and consistent with the RMR Agreement and Schedule F. Accordingly, the ISO urges the Commission to rule that the rates set forth in the PG&E Filing have not been shown to be just and reasonable; establish January 1, 2003 as the refund date for PG&E's proposed rates; and allow the ISO, PG&E and other interested parties to undertake the further activities provided for under the RMR Agreement to determine whether there are appropriate revisions to PG&E's proposed rates in accordance with Schedule F.

B. Updates to the RMR Schedules

In the limited time it has had to review the PG&E Filing, the ISO has already identified the following problems in PG&E's Filing:

- O&M for the Hunters Point O&M Power Plant increased from \$10,010,869 to \$21,669,006 without adequate support or justification.
- The Maximum Annual Service Hours, in Section 12 of Schedule A, submitted for Hunters Point units 2 and 3 of 5,035 and 5,696 respectively and the TAH values in Table B-5 of Schedule B for Hunter Point units 2 and 3 of 3190 and 3864, respectively, do not comply with the 2001 Hunters Point Synchronous Condenser Rate Settlement with the ISO. This settlement included a provision that Service Hours and TAH for Hunters Point 2&3 would be set at 85% of the annual available hours (85% of 8760 equals 7,446 hours). The values presented in the Filing are based on the historic values associated with these units when they

operated as steam units. The values of TAH affect the rates in Tables B-1, B-2, B-3 and B-4, which must also be corrected.

- The filed rates for the Helms Facility are aggregate rates for all three units at the Facility. For example, the Hourly Availability Charge (Table B-1) is stated as "All - \$1,753.62". Filing a rate that applies to "All" units is inconsistent with the dispatch, statement of availability, service limits, metering and all invoicing provisions in the RMR Agreement because each of these are implemented for each individual and distinct unit. Thus, the aggregation of the unit values in Schedules A, B, C and D, is inappropriate and the Commission should require PG&E to file distinct and individual rates for each unit at the Helms Facility.
- The filed rates for the San Joaquin Watershed Facility are aggregate rates for all units at the Facility. For example, the Hourly Availability Charge (Table B-1) is stated as "All - \$779.48". Filing a rate that applies to "All" units is inconsistent with the dispatch, statement of availability, service limits, metering and all invoicing provisions in the RMR Agreement because each of these are implemented as for each individual and distinct unit. Thus, the aggregation of the unit values in Schedules A, B, C and D, is inappropriate and the Commission should require PG&E to file distinct and individual rates for each unit at the San Joaquin Watershed Facility.

III. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission rule that the rates set forth in the PG&E Filing have not been shown

to be just and reasonable; establish January 1, 2003 as the refund date for PG&E's proposed rates; and allow the ISO, PG&E and other interested parties to undertake the further activities provided for under the RMR Agreement to determine whether there are appropriate revisions to PG&E's proposed rates in accordance with Schedule F.

Respectfully submitted,

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Counsel for the California Independent
System Operator Corporation

Date: November 20, 2002



November 20, 2002

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

Re: **Pacific Gas and Electric Company,
Docket No. ER03-94-000**

Dear Secretary Salas:

Enclosed please find an electronic filing in the above-captioned proceeding of the Provisional Protest of the California Independent System Operator Corporation. Thank you for your attention to this filing.

Respectfully submitted,

Jeanne M. Solé
Counsel for the California Independent
System Operator Corporation

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Folsom, CA, on this 20th day of November, 2002.

Jeanne M. Solé