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FEDERAL ENERGY
REGULATORY COMMISSION

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November 2, 2001

David P. Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Williams Energy Marketing & Trading Company
Docket No. ER02-91-000**

Dear Secretary Boergers:

Enclosed for filing in the above-captioned proceeding are an original and fourteen (14) copies of the Request to Reject or in the Alternative Motion to Intervene, Protest and Motion for Direction to Supplement the Filing and Extension of Time of the California Independent System Operator. Two additional copies of the filing are also enclosed. I would appreciate your stamping the additional copies with the date filed and returning it to the messenger.

Respectfully submitted,

Rebecca A. Blackmer ^{BAM}

J. Phillip Jordan
Rebecca A. Blackmer
Counsel for the California Independent
System Operator Corporation

col/ante

011107-0068-1

[Handwritten initials]
FERC DOCKETEL

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

**Williams Energy Marketing) Docket No. ER02-91-000
& Trading Company)**

**REQUEST TO REJECT OR
IN THE ALTERNATIVE MOTION TO INTERVENE, PROTEST, AND MOTION
FOR DIRECTION TO SUPPLEMENT THE FILING AND EXTENSION OF TIME
OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR**

Pursuant to Rules 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or "Commission"), 18 C.F.R. §§ 385.211 and 385.214, the Commission's October 17, 2001, Notice of Filing, and Schedule F of the Pro Forma Must-Run Service Agreement, the California Independent System Operator Corporation ("ISO") hereby requests the Commission to reject the October 12, 2001, filing of Williams Energy Marketing & Trading Company ("Williams") in the above-captioned proceeding, or in the alternative moves to intervene, protests the filing by Williams, and moves for a direction to supplement the filing and an extension of time. 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 October 12, 2001, Williams submitted an informational rate filing proposing rate revisions under its Reliability Must-Run ("RMR") Service Agreements.¹ The filing was made in accordance 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. Schedule F establishes the procedures and methodology for determining the Annual Fixed Revenue Requirements and Variable O&M Rates for facilities designated for must-run service. Williams' filing was intended to provide updated cost information used in determining the Annual Fixed Revenue Requirement and the Variable O&M Rates to be effective January 1, 2002. On October 17, 2001, the Commission issued a "Notice of Filing" setting November 2, 2001, as the final date for interventions and protests.

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.

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

III. BASIS FOR THE REQUEST TO REJECT

Pursuant to Schedule F of the RMR Agreement, Williams submitted to the ISO and FERC an Information Package for the purpose of detailing and supporting all calculations involved in the determination of rates and charges for the calendar year 2002.³ The RMR Agreement allows the Owner to file a single Information Package containing informational materials pertaining to all of the Owner's designated must-run facilities. In addition, the Owner is required to provide specific information for each of its RMR facilities. Williams submitted to the ISO a single Information Package containing proposed rate changes and supporting materials for its two designated RMR facilities. However, the information provided by Williams for each of these facilities was incomplete.

Schedule F, Article I, Part B of the RMR Agreement requires that each Information Package contain the following information for each RMR unit:

1. detailed workpapers showing the derivation of costs under the Formula for the relevant Cost Year along with supporting schedules showing the data used in applying the formula, presented in a format consistent with the presentation of information in the FERC Form No. 1;
2. a clear identification of the depreciation rates reflected in claimed costs for the Cost Year and the rate of return and every other stated item (*i.e.*, any item which appears as a numerical value in the Formula and which only may be changed by a filing with the FERC);
3. a comparison of the major components of the resulting revenue requirements for the relevant Cost Year with the corresponding components of the revenue requirements that result from the application of the Formula using costs from the Owner's FERC Form No. 1 relating to the preceding calendar year;

³ Schedule F, Article I, Part B of the RMR Agreement requires the Owner to submit the Information Package to FERC so as to allow for review of the related rates and charges by the Commission staff and affected parties.

4. such additional documentation as to specific items of costs required by the Formula.

Specifically, Williams failed to provide detailed workpapers showing the derivation of costs required in Item 1, as the October 12 filing only shows the final amounts for the formula, aggregating individual accounts, and does not provide the detailed components for each amount according to FERC Form No. 1 and FERC Form No. 1 accounts. Similarly, Williams' comparison required in Item 3 contains inadequate detail. Thus, the information provided in the Information Package lacks sufficient detail to analyze the proposed rates. Without this information, the ISO is unable to make a determination as to whether Williams' proposed changes are acceptable.

On October 18, 2001, the ISO sent a letter to Williams advising it that its Information Package was deficient and that a complete Information Package should be provided to the ISO as soon as possible but no later than October 26, 2001. On October 26, 2001, the ISO received a letter from Williams in which Williams detailed why it considered that its Information Package conforms to Schedule F but providing no further information. Since Williams has failed to meet the requirements of Schedule F, the ISO requests that the Commission reject Williams' filing and suspend any further proceedings until and unless an adequate Information Package is submitted to the ISO and FERC by Williams, in accordance with the requirements of Schedule F.

The ISO is today sending a detailed data request to Williams setting forth the information that the ISO considers to be lacking in the Information Package

submitted by Williams. An adequate and timely reply by Williams to the request should provide for a complete Information Package.

In the interim, however, fairness and practicality weigh in favor of rejection of the Williams filing. First, Williams should not be allowed to lock in a favorable refund date (January 1, 2002) having failed to prepare a thorough and complete Information Package in accordance with Schedule F, particularly since Williams was timely advised by the ISO that it considers the Williams Information Package to be deficient. Second, once a favorable refund date is established, Williams would have little incentive to work cooperatively with the ISO to complete its Information Package.

IV. MOTION TO INTERVENE

The ISO is a non-profit public benefit corporation organized under the laws of the State of California and 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 Ancillary Services and real-time electricity markets in California. As the counter party in the RMR Agreements governing Williams' provision of RMR services, the ISO has a unique interest in any Commission proceeding concerning proposed changes to those RMR Agreements. Accordingly, the ISO has a direct and substantial interest in the proposed rate changes and requests that it be permitted to intervene in this proceeding with full rights of a party.

V. PROTEST

If the Commission declines to reject Williams' filing, the ISO protests Williams' filing of October 12 because of Williams' failure to comply with Schedule F's requirements concerning the Information Package, and the consequent inability of the ISO to verify the propriety of Williams' proposed rate changes. The ISO will withdraw its protest if it verifies, upon receipt of a complete Information Package and the subsequent discovery process contemplated in Schedule F, that the proposed rates and charges are appropriate. Moreover, as discussed in more detail below, the ISO requests that the deadline for discovery (45 days) and filing of protests (75 days), as provided in the RMR Agreement, should begin on the date that Williams submits a complete Information Package to the ISO and FERC in order to provide time for meaningful review of the information submitted.

The ISO is filing the instant protest as a protection should the Commission choose not to extend the time for filing protests.

VI. REQUEST FOR DIRECTION TO SUPPLEMENT THE FILING AND EXTENSION OF TIME FOR DISCOVERY AND PROTEST

The Commission, in its October 17, 2001, Notice in this proceeding, allowed the standard 21 days for the filing of interventions and protests. However, Schedule F 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:

As to the information filing relating to rates and charges to be effective during calendar year 2002, (i) discovery requests by the FERC staff and affected parties shall be made within 45 days of the filing, with responses by the Owner due within

60 days of the filing, and (ii) protests, if any, by affected parties shall be filed with the FERC within 75 days of the filing.

The ISO respectfully requests that the Commission issue a direction to Williams to supplement the Information Package, and notice extending the time for discovery requests and to file protests in conformance with the time set forth in the RMR Agreement.

As noted above, the October 12 Williams filing does not meet the requirements of Schedule F, and Williams has not timely corrected the deficiencies. Accordingly, if it declines to reject Williams' filing as incomplete, the Commission should, at a minimum, direct Williams to supplement its Information Package and supply the information that is currently lacking.

The ISO notes that obtaining the information through the discovery process subsequent to submission of a complete Information Package by RMR Owners is not the same as obtaining the information as part of a complete Information Package. First, as described in further detail below, timelines for discovery and protest were designed to run based upon when the ISO, FERC and affected parties received a full Information Package. If RMR Owners are not required to provide complete Information Packages in the first instance, the ISO, FERC staff and affected parties will have to use time provided for detailed discovery to obtain the base-line information that should have been provided up-front and will not have the time to conduct the same level of detailed discovery provided for in Schedule F. Moreover, whereas the Information Package is required to be posted publicly on the ISO website, subsequent discovery responses may be subject to confidential treatment. Thus, the confidentiality

provisions for information in the Information Package and information obtained through discovery are different.

Further, the Commission should extend the time for discovery requests and to file protests in conformance with the time set forth in the RMR Agreement, within 45 days and 75 days, respectively, of receipt of a complete Information Package by the ISO and FERC. Parties to the original *pro forma* RMR Agreement contemplated that additional time would be necessary to review the proposed rate changes. Additional time is necessary in order to allow the parties to obtain further information, as necessary, and work out among themselves any discrepancies in the data provided. Moreover, allowing the time set forth in the RMR Agreement serves the public interest because it will substantially increase the likelihood that parties will be able to work out any discrepancies and thus potentially avoid protests.

VII. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission reject Williams' October 12 filing. In the alternative, if the Commission declines to reject Williams' filing, the ISO respectfully requests that the Commission permit the ISO to intervene, and that it be accorded full party status in this proceeding. In addition, the ISO enters a protective protest of Williams' filing and further requests that the Commission direct Williams to supplement its Information Package. Finally, the ISO requests the Commission to extend the time for discovery requests and for filing protests in accordance with the terms of the RMR Agreement and that the Commission toll the time for discovery requests and filing protests until Williams submits to the ISO and

FERC a complete Information Package as required under Schedule F of the RMR Agreement.

Respectfully submitted,

Rebecca A. Blackmer ^{BA-1}

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Counsel for the California Independent
System Operator Corporation

Date: November 2, 2001

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 Washington, DC, on this 2nd of November, 2001.


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