

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

El Segundo Power, LLC) Docket No. ER05-791-000
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)

**MOTION FOR LEAVE TO FILE A SUPPLEMENTAL PROTEST OUT-OF-TIME
AND SUPPLEMENTAL PROTEST OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.211 (2004), the California Independent System Operator Corporation (“CAISO”) submits this Motion for Leave to File a Supplemental Protest Out-of-Time and Supplemental Protest in the captioned proceeding. In support thereof, the CAISO states as follows.

I. BACKGROUND

On April 6, 2005, El Segundo Power, LLC (“El Segundo”) tendered for filing an amendment to Sheet Nos. 127 and 129 of its Rate Schedule, FERC No. 2, Reliability Must-Run Service Agreement (“RMR Agreement”) between El Segundo and the CAISO. El Segundo requests an effective date of January 1, 2005 for Substitute Original Sheet No. 127 and May 1, 2005 for First Revised Sheet No. 129. On April 27, 2005, the CAISO filed a timely motion to intervene and comments raising concerns regarding values set forth in Substitute Original Sheet No. 127, Schedule A, Section 2 “Description of RMR Units.” The purpose of El Segundo’s filing was to correct a typographical error and to adjust the El

Segundo RMR ramp rates. CAISO's original comments addressed the correction. CAISO now seeks to file this protest regarding the ramp rate values set forth on Original Sheet No. 129, item 8 based on test result information that became available to the CAISO after the April 27 comment deadline.

II. MOTION FOR LEAVE TO FILE SUPPLEMENTAL PROTEST

As stated in El Segundo's April 6, 2005 filing, the request to modify Original Sheet No. 129, Item 8, Ramp Rate of Schedule A was contingent upon successful completion of ramp rate performance testing.¹ The test occurred on April 22, 2005 and the test results were made available on April 29, 2005 to the CAISO's Contracts Department which manages all RMR contracts. Because the test results were not available to the CAISO's Contracts Department for review prior to the comment date established by the Commission, there is good cause for the Commission to accept this Supplemental Protest. Accordingly, the CAISO requests that the Commission accept this Supplemental Protest out-of-time.

III. SUPPLEMENTAL PROTEST

The Maximum Ramp Rate elected by El Segundo and currently on file is significantly less than the maximum achieved during ramp rate testing. Specifically, the filed ramp rates are 30 percent less than the tested values. El Segundo's election of a lower ramp rate raises two concerns as described in more detail below: 1) the resulting "Ancillary Services Schedule M bids"² for

¹ El Segundo Power LLC, Docket No. ER05-791-000, Application at p. 4 (filed Apr. 6, 2005).

² Schedule M of the RMR Agreement sets forth a formula to calculate the bid the Owner of a Condition 2 Unit must submit into Ancillary Service markets when dispatched by the ISO. One variable of the formula is the unit's highest ramp rate which is at issue in this proceeding.

Condition 2 Units may cause an unjust and unreasonable price increase in the CAISO's Ancillary Services market during hours the Units are required to bid; and 2) the lower ramp rates do not allow the CAISO to access the full capability of the Units either in its market or through the RMR Agreement when such capability may be critical to maintaining the reliability of the CAISO Controlled Grid.

For a Condition 2 RMR Unit,³ the ramp rate value impacts the value of the Mandatory Market Bid (Ancillary Services Bid) set forth in Schedule M of the RMR Agreement. When operating as a Condition 2 Unit, the resulting ancillary services bids specified by the bid formula in Schedule M may be unjust and unreasonable if the unit owner uses a maximum ramp rate value that is lower than the tested value. Schedule M of the RMR Agreement establishes a relationship between the highest ramp rate specified in Schedule A, section 8 "Ramp Rate," and the value of the mandatory market bid for Condition 2 units when dispatched by the CAISO. Specifically, Schedule M specifies an Ancillary Services Bid (\$/MW per hour) that is inversely proportional to the highest ramp rate; *i.e.*, as the highest ramp rate value decreases, the Ancillary Services Bid value increases. El Segundo's election of ramp rate values in Schedule A, section 8 that result in a stated "highest ramp rate" that is less than the tested

³ RMR Units are either designated as Condition 1 or Condition 2 units. Condition 1 units may participate in market transactions and the owner is permitted to retain all revenues from such market transactions. Conversely, a Condition 2 unit may not participate in market transactions unless the ISO issues a dispatch notice for the unit. When the ISO does issue a dispatch notice for a Condition 2 unit, the owner must bid to participate in the next available Energy and Ancillary Services markets but may not retain the revenues from such market transactions.

ramp rate gives rise to concern for the validity of the corresponding Schedule M Ancillary Services Bid value for Condition 2 Units.

El Segundo states in its filing that the acceptance of the Amended Rate Schedules will not increase rates. This statement is only true while El Segundo operates as a Condition 1 unit because Condition 1 units are not subject to this Schedule M bidding requirement. However, it is not true for Condition 2 units, and the CAISO is concerned that its acceptance of the lower ramp rate here, where El Segundo is expected to be on Condition 1 for the remainder of the year, will be viewed as acceptance of the practice for other purposes. Accordingly, the CAISO requests that the Commission require El Segundo to use the highest ramp rate value as determined by the April 22, 2005 ramp rate test and to file this value as an amendment to Schedule A before operating the units under Condition 2 of the RMR Agreement.

Indeed, the fact that the maximum ramp rates in Schedule A of the RMR Agreement are less than the capability of the units compromises both the ability to use the units to meet reliability requirements under the RMR Agreement and the ability to access the additional 10-minute reserve capacity faster ramp rates would provide to the CAISO markets. This should in no way prejudice El Segundo because, the ramp rates in filed in Schedule A, Section 8 allows El Segundo flexibility in the level of ramp rate the units may operate to on a day-to-day basis. This flexibility is accomplished through the bids El Segundo may submit each day. The values in Schedule A, Section 8 specify only the minimum and maximum limits of the bids El Segundo may submit. However, the maximum

values in Schedule A, Section 8 should reflect the maximum capability of the units to allow the unit to operate to those values when necessary, not a lower value as El Segundo has proposed. Accordingly, the ISO requests that the Commission order El Segundo to file ramp rates that reflect maximum ramp rate values that are consistent with the capability of the units.

IV. CONCLUSION

For the foregoing reasons, the CAISO respectfully requests that the Commission grant this Motion to for Leave to File a Supplemental Protest Out-of-Time and accept this Supplemental Protest and direct El Segundo to submit revised tariff sheets that accurately reflect the maximum ramp rate capabilities of the Units.

Dated: May 9, 2005

Respectfully submitted,

/s/ Mary Anne Sullivan

Mary Anne Sullivan
Hogan & Hartson L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004

Counsel for the California Independent
System Operator Corporation

CERTIFICATE OF SERVICE

I hereby certify that I have, this 9th day of May 2005, caused to be served a copy of the foregoing 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 Mannheim Davies
Sidney Mannheim Davies
California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630