



January 21, 2005

Via Electronic Filing

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

Re: Williams Power Company, Inc., ER05-406-000

Dear Secretary Salas:

Enclosed please find the Joint Protest and Request for 45-Day Comment Period of the California Independent System Operator Corporation, Southern California Edison Company and the California Public Utilities Commission submitted today in the above- captioned proceeding.

Thank you for your attention to this matter.

Respectfully Submitted,

/s/ Sidney L. Mannheim
Sidney L. Mannheim

Regulatory Counsel
California Independent System
Operator Corporation

Enclosure

cc: Service List

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

Williams Power Company, Inc.) Docket No. ER05-406-000

**JOINT PROTEST AND REQUEST FOR 45-DAY COMMENT PERIOD OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION,
SOUTHERN CALIFORNIA EDISON COMPANY AND
THE CALIFORNIA PUBLIC UTILITIES COMMISSION**

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.211, and the Commission’s January 6, 2005 Notice of Filing, the California Independent System Operator Corporation (“CAISO”), Southern California Edison Company (“SCE”) and the California Public Utilities Commission (“CPUC”) (“Joint Parties”) hereby submit this Joint Protest. In support thereof, the Joint Parties state as follows:

I. BACKGROUND

On December 30, 2005, Williams Power Company (“Williams”) 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 Agreements (“RMR Agreements”)¹ with the CAISO for Alamos Unit 3 and Huntington Beach Units 1 and 2. Williams’ filing also included information, inappropriately filed under seal, concerning 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” unit(s) (“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 (“AFRR”) under its RMR Agreements. Williams has requested an effective date of January 1, 2005 for its proposed changes.

RMR owners are required to submit an “Information Package” pursuant to the terms of a settlement agreement approved by the Commission² under which each RMR unit 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”). Schedule F establishes the procedures and methodology for determining the AFRR and Variable O&M Rates for facilities designated as RMR Units. Williams’ filing is intended to provide the updated cost information used in determining the AFRR and the Variable O&M Rates for Williams’ designated RMR Units to be effective January 1, 2005. In addition, Williams’ filing updates a number of RMR Agreement schedules, including the Contract Service Limits and Owners Repair Cost Obligation in Schedule A for the Alamitos Unit and the Contract Service Limits for the Huntington Beach Units, the values in Tables B-0³ through B-6 in Schedule B for the Alamitos and Huntington Beach Units, and the Prepaid Start-up Charges in Schedule D for the Alamitos and Huntington Beach Units. Williams also submitted changes to Schedule J for the Alamitos and Huntington Beach Units.

The CAISO, SCE, and CPUC are filing separate motions to intervene, or in the case of the CPUC, a notice of intervention, on or before the January 21, 2005 comment date. As explained more fully below, Williams’ filing fails to

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

³ The RMR Agreement only provides the RMR owner with the right to submit annual updates for the values in tables B-1 through B-6.

comply with the requirements of the RMR Agreement, contains excessive and unsupported costs, and proposed unjust and unreasonable rates. Accordingly, the Commission should not accept Williams' filing without setting the matter for settlement and hearing and imposing refund liability on Williams.

The Joint Parties are currently engaged in discovery and hope to be able to resolve the outstanding issues with Williams once this discovery is completed. However, to comply with the January 21, 2005 comment date prescribed by the Commission's January 6, 2005 Notice of Filing and to preserve their rights to litigate any issues that cannot be promptly resolved, while still affording all of the parties a reasonable opportunity to resolve this case through settlement, the Joint Parties are hereby filing this protest. In this latter regard, the Joint Parties request that the Commission defer taking any action in this matter, including, but not limited to, setting it for a Pre-hearing Conference, until no earlier than April 1, 2005.

II. PROTEST

Based on their initial review of William's 2005 RMR filing for Huntington Beach Units 1 and 2 and Alamitos Unit 3, the Joint Parties have identified the following items of concern:

A. Failure to Provide Schedule F Data

Williams has failed to provide the full information required for Schedule F of the RMR Agreements. Specifically, Schedule F of the RMR Agreements provides that the filed Information Package must include:

- 1) detailed workpapers showing the derivation of costs under the Formula for determining Annual Revenue Requirements;⁴
- 2) a clear identification of the depreciation rates reflected in the claimed costs for the Cost Year;
- 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 application of the Formula using costs relating to the preceding calendar year; and
- 4) such additional documentation as to specific items of costs required by the Formula.

As explained more fully below, Williams' filing fails to provide this Schedule F information in varying degrees with respect to several of the data set forth in Schedule F.⁵ Williams has also marked improperly certain Schedule F and supporting data as confidential. Schedule F plainly provides that "the ISO shall post the Information Package on its web site."⁶ Thus, confidential treatment is inappropriate. Indeed, the Commission has already once rejected Williams' attempt in its prior Schedule F filing to keep Schedule F data confidential.⁷

⁴ Schedule F, Article II.

⁵ Without the detail required by Schedule F, the Parties cannot be certain that they have identified all of the problems in William's filing, and they reserve the right, upon being provided with the full Schedule F information, to revise and supplement this protest to raise additional issues.

⁶ Schedule F, Part B.

⁷ *Order Accepting Information Filing For Filing, Accepting Proposed Tariff Sheets, Denying Confidential Treatment Of Certain Attachments To Information Filing, And Notifying Company Of Release Of Documents*, 106 FERC ¶ 61,188 at P 15 (2004).

B. Annual Fixed Revenue Requirement

Williams' filing requests that the Annual Fixed Revenue Requirement ("AFRR") for Alamitos 3 and Huntington Beach 1 and 2 RMR Units be set at \$9,728,207,⁸ \$8,162,188 and \$8,162,188 respectively. The Steam Production O&M and Administration and General Expenses components of these AFRR expenses do not provide sufficient detail to determine if the rates based on these are appropriate and reasonable. Williams should be directed to provide back-up data for its AFRR calculations so that an analysis of the reasonableness of the filed AFRR value and its respective components can be undertaken.

C. Production Plant Depreciation

The value of Production Plant Depreciation for the Alamitos Unit (\$16,958,000) and the Huntington Beach Units (\$4,381,000) included in the Williams' filing reflect an increase since Williams began operating these facilities. These changes appear to be due to increases in Production Plant Investment (Accounts 310-316, 330-336, 340-346, 106 and 114) and unknown depreciation schedules for these facilities. Schedule F, Part C, Section 1 (B) specifies how Depreciation Expenses should be determined. Williams' filing does not include sufficient information to determine the appropriateness of the values of Depreciation Expense, Depreciation Reserve and Deferred Income Taxes. Williams should be required to demonstrate the reasonableness of these increases in Production Plant Depreciation.

⁸ This value is determined by using an allocation factor of 16.41% of the Facility Expenses of the various expense components.

D. Calculation of Target Available Hours

The values Williams proposes for Target Available Hours (“TAH”) for the Alamitos 3 and Huntington Beach 1 and 2 Units are 7,242, 7,106 and 7,669 respectively, do not have sufficient supporting data to determine whether such TAH are just and reasonable. Williams should be directed to include the monthly outage data from which these TAH values are calculated.

E. Pre-Paid Start-Up Cost Calculation

Williams’ filing has failed to provide supporting data for the Pre-paid Start-up Cost calculation in Table D-0. The determination of Pre-paid Start-up Costs does not adhere to the requirements of Schedule D, Section 1, subparagraph (b) of the RMR Agreements in that supporting documentation for the determination of Energy Price and Hourly Fuel Price have not been provided. That provision also requires an alternate method for calculating Energy Costs where the facility concerned has the capability to use Energy from other units at the same Facility to effect Start-ups. To the extent these units meet that requirement, they should be required to use the alternate method for calculating Energy Costs presented in that paragraph.

F. Emissions Expenses

Williams has not explained, with respect to either the Alamitos 3 or the Huntington Beach 1 and 2 RMR Units, the NOx related expenses that are included in the proposed AFRR. The filing does not contain updated information for Schedule C, Tables C1-13 and C1-14 for these units. The values in these Tables are used to determine the variable cost payable under the RMR

Agreements for NOx emissions. To the extent that AFRR includes expenses for Selective Catalytic Reduction (“SCR”) capital expenses for these units, without further explanation, the Joint Parties are concerned that Williams may, in effect, be seeking recovery for the same emissions expense twice, resulting in rates that are unjust and unreasonable. Additional information and clarification is required to determine the appropriateness of including these NOx related expenses in the proposed AFRR for the Alamitos 3 and Huntington Beach 1 and 2 RMR Units and the appropriateness of continued variable cost invoicing for these NOx related Emissions expenses in future invoicing.

G. Annual Non-Fuel Start-Up Costs

Williams’ filing does not include information, with respect to either the Alamitos 3 or Huntington Beach 1 and 2 Units, on the Annual Non-Fuel Start-Up Cost as required by Schedule F, Article II, Part A, Section 6 (E). This is one of the variable costs subtracted from the total Annual Revenue Requirement to determine the Annual Fixed Revenue Requirements. The Commission should require that Williams provide such information before its proposed rates are allowed to go into effect.

H. Return and Income Tax Allowance

Schedule F, Article II, Part B, Section 3 prescribes a formula for determining the value for Return and Income Tax Allowance. Williams has modified the Schedule F calculation for the Huntington Beach Units such that this value is set equal to \$0. The Joint Parties, on the other hand, estimate the value of Return and Income Tax Allowance to be approximately \$-3,000,000 (*i.e.*

negative \$3 million). This negative amount has the result of reducing the Huntington Beach AFRR value by \$3,000,000. Williams should be required to calculate this value as required by Schedule F and to reflect the proper negative allowance.

I. Fixed Option Payment Factor (“FOPF”)

Williams also proposes changes to the Fixed Option Payment Factors (“FOPFs”) in Table B-0 of Schedule B. For the Alamitos 3 Unit, Williams proposes to change the value from 0.28 to 0.50. For Huntington Beach Units 1 and 2, Williams proposes to change the value from 0.28 to 0.65. The RMR Agreement does not provide the RMR Owner with the right to change the value in Table B-0. Schedule B, paragraph 8 limits the annual Section 205 filing to Tables B-1 through B-6. Moreover, these changes in FOPF effectively double the annual Availability Payments made under the RMR Agreements. Williams has not demonstrated that these FOPFs are just and reasonable and should be instructed to provide additional information justifying the changes.

The issues noted above represent only those problems Joint Parties have been able to identify on the basis of limited data and in the short time Joint Parties have had to review the data. In addition to the request for a 45-day comment period, discussed below, Joint Parties reserve their respective rights to supplement this Joint Protest and to raise any additional issues as this proceeding develops and as the Joint Parties receive additional information.

III. REQUEST FOR 45-DAY COMMENT PERIOD

The Notice of Filing specifies a comment date of January 21, 2005, twenty-two days from the date of the filing. 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 extend the comment period to February 14, 2005 to allow for the full 45-day comment period prescribed by Schedule F of the RMR Agreement.

IV. CONCLUSION

For all of the foregoing reasons, the Parties respectfully request that the Commission: (1) find that the Williams' proposed filing is unjust and unreasonable; (2) issue an initial order accepting the proposed RMR Agreement and its Schedules to be effective January 1, 2005, subject to refund, and set this matter, including, without limitation, all of the issues identified above for a hearing; and (3) issue a deficiency letter requiring Williams to file within fifteen (15) days the full supporting information required by Schedule F on a non-confidential basis.

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In order to provide time to enable the parties to effectuate a settlement of the matter, the Joint Protesters additionally request that the Commission defer taking any action in this matter, including, but not limited to, setting it for a Pre-Hearing Conference, until no earlier than April 1, 2005.

Dated: January 21, 2005

Respectfully submitted,

/s/ Sidney L. Mannheim

Sidney L. Mannheim
California Independent System Operator
Corporation
151 Blue Ravine Road
Folsom, CA 95630

Counsel for California Independent
System Operator Corporation

Anna J. Valdborg
Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770

Counsel for Southern California
Edison Company

and

Laurence Chaset
Nicholas Sher
Public Utilities Commission of the
State of California
505 Van Ness Avenue, Room 5131
San Francisco, CA 94102

Counsel for the Public Utilities
Commission of the State of California

CERTIFICATE OF SERVICE

I hereby certify that I have this 21st day of January, 2005 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 these proceedings.

/s/ Sidney L. Mannheim
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