

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

Duke Energy Oakland, LLC) Docket No. ER03-116-000

**MOTION TO INTERVENE OF THE
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 6, 2002 Notice of Filing, the California Independent System Operator Corporation (“ISO”) hereby 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:

<p>Jeanne M. Solé* Regulatory Counsel The California Independent System Operator Corporation 151 Blue Ravine Road Folsom, CA 95630 Tel: (916) 351-4400 Fax: (916) 608-7222</p>	<p>J. Phillip Jordan* Rebecca A. Blackmer Swidler Berlin Shereff Friedman, LLP 3000 K Street, N.W., Suite 300 Washington, DC 20007 Tel: (202) 424-7500 Fax: (202) 424-7643</p>
<p>Deborah A. Le Vine¹ Director of Contracts The California Independent System Operator Corporation 151 Blue Ravine Road Folsom, CA 95630 Tel: (916) 351-4400 Fax: (916) 608-7222</p>	

* Individuals designated for service pursuant to Rule 203(b)(3), 18 C.F.R. § 203(b)(3).

II. BACKGROUND

On October 31, 2002, Duke Energy Oakland, LLC (“DEO”) submitted an informational rate filing proposing rate revisions under its Reliability Must-Run (“RMR”) Agreement with the ISO (“DEO Filing”).² The DEO Filing relates to RMR Agreement as to the Oakland Power Plant. The filing was made to comply with the terms of a settlement agreement approved by the Commission³ 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.

¹ In addition to Ms. Solé and Mr. Jordan, the ISO respectfully requests that Ms. Le Vine be included in the Official Service List. Ms. Solé and Ms. Le Vine work in separate buildings, and it would be of significant assistance to the ISO if both were included on the list.

² 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.

³ *California Independent System Operator Corp.*, 87 FERC ¶ 61,250 (1999).

The DEO 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 DEO Filing also seeks pursuant to Section 205 of the Federal Power Act ("FPA")⁴ 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 DEO 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 DEO Filing updates a number of RMR Agreement Schedules: including the Contract Service Limits and Owners Repair Cost Obligation 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 6, 2002, the Commission issued a "Notice of Filing" setting November 21, 2002, as the final date for interventions and protests.

III. BASIS FOR 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 a number of public utilities including Pacific Gas and Electric Company ("PG&E"), as well as for the coordination of

⁴ 18 USC § 824d.

the competitive Ancillary Services and real-time electricity markets in California. The Oakland Power Plant is located within PG&E's transmission system and is needed to maintain reliability in the Greater San Francisco Bay Area ("GSFBA"). As the Control Area Operator responsible for maintaining reliability in the GSFBA, and as the counter party in the RMR Agreements governing DEO's 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.

IV. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission permit it to intervene, and that it be accorded full party status in this proceeding.

Respectfully submitted,

Jeanne M. Solé
Regulatory Counsel
California Independent System Operator
Corporation
151 Blue Ravine Road
Folsom, CA 95630
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Counsel for the California Independent
System Operator Corporation

Date: November 14, 2002



November 14, 2002

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

Re: **Duke Energy Oakland LLC,**
Docket No. ER03-116-000

Dear Secretary Salas:

Enclosed please find an electronic filing in the above-captioned proceeding of the Motion to Intervene 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 14th day of November, 2002.

Jeanne M. Solé