

ORIGINAL

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR
3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FAX (202) 295-8478
WWW.SBFLAW.COM

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FEDERAL ENERGY
REGULATORY COMMISSION

NEW YORK OFFICE
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
(212) 913-0111 FAX (212) 891-9598

November 21, 2001

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

Re: **Pacific Gas and Electric Company**
Docket No. ER02-208-000

Dear Secretary Boergers:

Enclosed for filing in the above-captioned proceeding are an original and fourteen copies of the Motion to Intervene and Conditional Protest of the California Independent System Operator Corporation. 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

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

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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FEDERAL ENERGY
REGULATORY COMMISSION

Pacific Gas and Electric Company)

Docket No. ER02-208-000

**MOTION TO INTERVENE AND CONDITIONAL PROTEST OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. §§ 385.211 and 385.214, and the Commission's November 5, 2001, Notice of Filing, the California Independent System Operator Corporation ("ISO") hereby moves to intervene and submits a conditional protest 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:

Deborah Le Vine, Director
of Contracts
Jeanne M. Solé
Regulatory Counsel
The California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 351-2144
Fax: (916) 351-2487

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

II. BACKGROUND

On October 31, 2001, Pacific Gas and Electric Company ("PG&E") submitted revised tariff sheets to the Reliability Must Run ("RMR") Service Agreements¹ between PG&E and the ISO ("PG&E Filing"). The filing was made in compliance with the terms of a settlement agreement approved by the Commission² under which each RMR Owner is required to file annual updates for Contract Service Limits, Hourly Availability Charges and Penalty Rates, Prepaid Start-up Costs, projected outage information, Annual Fixed Revenue Requirements, and Variable Operation and Maintenance ("O&M") rates.

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 PG&E, 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 PG&E'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

¹ Because the generating units covered by these agreements must operate at certain times for the reliability of the ISO Controlled Grid, they are referred to as "reliability must-run" or "RMR" units and the agreements covering them are referred to herein 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).

proposed rate changes and requests that it be permitted to intervene in this proceeding with full rights of a party.

IV. CONDITIONAL PROTEST

The ISO's conditional protest relates to the following items: (1) the values in Tables B-1 through B-6 related to the Annual Fixed Revenue Requirement ("AFRR") for all plants and, for Humboldt Bay Units 1 and 2, the Variable O&M Rates; and (2) the annual revisions to certain operating data and rates.

As noted in PG&E's Filing, AFRR values and Variable O&M Rates are included in the filing for the first time, subject to submittal by PG&E of an Information Package, as required by Schedule F, Article 1, Part B of the RMR Agreement. PG&E submitted the Information Package to the Commission on October 1, 2001, including the AFRR values and Variable O&M rates. The submittal is being considered by the Commission in Docket No. ER02-11-000. On October 22, 2001, the ISO filed an Intervention and Protest in that Docket. Accordingly, to prevent litigation of similar issues in two different dockets, the ISO joins the Public Utilities Commission of California in requesting that the Commission sever consideration of the appropriate AFRRs for the RMR units covered by the PG&E Filing and Humboldt Bay Units 1 and 2 Variable O&M Rates, from this Docket No. ER02-208-000, and consolidate these issues with the Commission's consideration of PG&E's Schedule F filing in Docket No. ER02-11-000.

In the alternative, if the Commission declines to accept this recommendation, the ISO protests the AFRRs and Variable O&M Rates for the

reasons set forth in the October 22, 2001 ISO Intervention and Protest in Docket No. ER2-11-000, which is attached as Appendix A.


Further, the ISO conditionally protests PG&E's Annual Revisions to certain operating data and rates included in Schedule B of the RMR Agreement. The ISO has identified what it believes to be a number of calculation errors and unduly elevated Hunters Point and Helms Power Plant outage figures in these revisions that would unnecessarily and inappropriately increase rates to the End-Use Customer. The ISO intends to discuss these errors and figures with PG&E and commits to updating the Commission within thirty days, by December 21, 2001, whether in the context of these discussions, the ISO concerns have been addressed or whether the ISO's protest stands.

V. 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. The ISO further requests that the Commission sever consideration of the appropriate AFRRs for the RMR units covered by the PG&E Filing, and Humboldt Bay Units 1 and 2 Variable O&M Rates, from consideration in this Docket No. ER02-208-000 and consolidate these issue with the Commission's consideration of PG&E's Schedule F filing in Docket No. ER02-11-000. If the Commission declines to accept this request, the ISO protests the AFRR values and Variable O&M Rates for Humboldt Bay Units 1 and 2 for the reasons set forth in the October 21, 2001 ISO Intervention and Protest in Docket No. ER01-11-000. Finally, the ISO conditionally protests PG&E's Annual Revisions to

certain operating data and rates pending further clarification of these revisions by PG&E and commits to updating the Commission within thirty days on whether PG&E's clarifications have addressed all of the ISO's concerns.

Respectfully submitted,



J. Phillip Jordan
Rebecca A. Blackmer
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Tel: (202) 424-7500
Fax: (202) 424-7643

Counsel for the California Independent
System Operator Corporation

Date: November 21, 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 21st day of November, 2001.



Rebecca A. Blackmer
Swidler Berlin Shereff Friedman
3000 K Street, NW, Suite 300
Washington, DC 20007
Tel: (202) 424-7500
Fax: (202) 424-7643

APPENDIX A

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR
3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FAX (202) 424-7645
WWW.SWIDLAW.COM

New York Office
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
(212) 973-0111 FAX (212) 891-9598

October 22, 2001

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

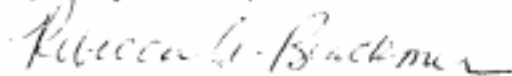
Re: **Pacific Gas and Electric Company,
Docket No. ER02-11-000**

FILED
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01 OCT 22 PM 4:11
FEDERAL ENERGY
REGULATORY COMMISSION

Dear Secretary Boergers:

Enclosed for filing in the above-captioned proceeding are an original and fourteen copies of the Motion to Intervene of the California Independent System Operator Corporation. 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,



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

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

Pacific Gas and Electric Company) Docket No. ER02-11-000

**MOTION TO INTERVENE AND PROTEST OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION, AND
MOTION FOR EXTENSION OF TIME FOR DISCOVERY AND PROTESTS**

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 October 5, 2001 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:

Deborah Le Vine, Director
of Contracts
Jeanne Sole
Regulatory Counsel
The California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
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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

II. BACKGROUND

On October 1, 2001, Pacific Gas and Electric Company ("PG&E") submitted an informational rate filing proposing rate revisions under its Reliability Must-Run ("RMR") Service Agreements.¹ The filing was made in compliance 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. PG&E's filing provided 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 5, 2001, the Commission issued a "Notice of Filing" setting October 22, 2001, 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 PG&E, 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

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).

markets in California. As the counter party in the RMR Agreements governing PG&E'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. Protest

Pursuant to Schedule F of the RMR Agreement, PG&E submitted to the ISO 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. PG&E submitted to the ISO a single Information Package containing proposed rate changes and supporting materials for its four designated RMR facilities. However, the information provided by PG&E 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;

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.

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

Specifically, PG&E failed to provide information concerning the derivation of costs in Item 1, clear identification of depreciation rates in Item 2, and the corresponding cost components in comparison for Item 3. Moreover, the information provided in the Information Package lacks sufficient detail to analyze the proposed rates. Without this information, the ISO will be unable to make a determination as to whether PG&E's proposed changes are acceptable. On October 18, 2001, the ISO sent a letter to PG&E 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.

Because of PG&E's failure to comply with Schedule F's requirements concerning the Information Package, the ISO protests PG&E's filing of October 1, 2001. 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 PG&E 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. The ISO also reserves the right to request that FERC reject the filing should PG&E fail to provide a complete Information Package by October 26, 2001.

V. Request for Extension of Time for Discovery and Protests

The Commission, in its October 5 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:

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.

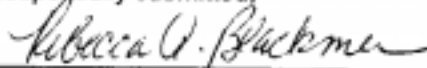
Accordingly, the ISO respectfully requests that the Commission issue a notice extending the time for discovery requests and to file protests in conformance with the time set forth in the RMR Agreement, within 45 days and 75 days respectively, of receipt of a complete Information Package. Parties to the original *pro forma* RMR Agreement, including PG&E, contemplated that

additional time would be necessary to review these 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.

V. 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. The ISO enters a protective protest of PG&E's filing. The ISO further requests that the Commission 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 PG&E submits to the ISO and FERC a complete Information Package as required under Schedule F of the RMR Agreement.

Respectfully submitted,



J. Phillip Jordan

Rebecca A. Blackmer

Swidler Berlin Shereff Friedman, LLP

3000 K Street, N.W., Suite 300

Washington, D.C. 20007

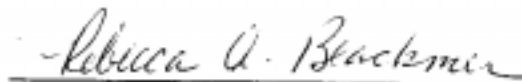
Counsel for the California Independent
System Operator Corporation

Date: October 22, 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 22nd day of October, 2001.



Rebecca A. Blackmer
Swidler Berlin Shereff Friedman
3000 K Street, NW, Suite 300
Washington, DC 20007
Tel: (202) 424-7500
Fax: (202) 424-7643

