

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

Dynegy Oakland, LLC

)

Docket No. ER08-124-000

**MOTION TO INTERVENE AND PROTEST  
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 (2007), the California Independent System Operator (“CAISO”) submits this Motion to Intervene and Protest in the captioned proceeding. In support thereof, the CAISO states as follows:

**I. Description of the Proceeding**

On October 31, 2007, Dynegy Oakland, LLC (“Oakland”) 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 Agreement (“RMR Agreement”) <sup>1/</sup> with the CAISO for Contract Year 2008. In addition, Oakland submitted its an annual informational filing, often referred to as the “Schedule F Filing,” to support its proposed changes to its Annual Fixed Revenue Requirements (“AFRR”). Oakland requests that all of the revised sheets become effective as of January 1, 2008.

The Commission issued a Combined Notice of Filings setting November 21, 2007 as the deadline for interventions in this proceeding.

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<sup>1/</sup> Because the generation units covered by a RMR agreement must operate at certain times for the reliability of the transmission grid, they are referred to as “reliability must-run” or “RMR” units. Other capitalized terms that are not defined in this filing have the same meaning set forth in the RMR Agreement.

## **II. Description of the CAISO and Communications**

The CAISO is a non-profit public benefit corporation organized under the laws of the State of California with a principal place of business at 151 Blue Ravine Road, Folsom, CA 95630. The CAISO is the Control Area Operator responsible for the reliable operation of a grid comprising of the transmission systems of a number of public utilities including Pacific Gas & Electric Company (“PG&E”), as well as the coordination of the ancillary services and real-time electricity markets in California.

The CAISO requests that all communications and notices concerning this motion and these proceedings be provided to:

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## **III. Motion to Intervene**

Oakland’s RMR units are located within PG&E’s transmission system and are needed to maintain the reliability of such system. As the Control Area Operator responsible for maintaining reliability of the PG&E transmission system and, as the counter party to the Oakland RMR Agreement, the CAISO has a unique interest in any Commission proceeding that affects this RMR Agreement. Accordingly, the CAISO has a direct and substantial interest in this

proceeding and requests that it be permitted to intervene with full rights of a party. Because no other party can adequately represent the CAISO's interests, the CAISO's intervention is in the public interest and should be granted.

#### **IV. Protest**

Based on its review of Oakland's RMR filing for Contract Year 2008, the CAISO objects to Oakland's annual revenue requirement to the extent Oakland is over-recovering by including both a Fee in Lieu of Return on Net Plant (Enclosure 3 of Appendix B Page 6, Line 5) and a Schedule F Return and Income Tax Allowance (Enclosure 2 of Appendix B Page 2, Line 3). The CAISO has not yet agreed to permit Oakland to collect an annual fee in lieu of a return on net plant. Oakland has failed to provide enough information to determine whether such Fee in Lieu of Return on Net Plant includes any costs associated with depreciated plant as calculated in Schedule F and, therefore, is over-recovering.

Based on the foregoing, Oakland has not shown that its proposed rates are just and reasonable. Accordingly, the CAISO requests that the Commission suspend the rate schedules subject to hearing and establish a refund date equal to the proposed effective date, January 1, 2008. In the past, the CAISO and Oakland have been able to engage in productive discussions to allow the CAISO to obtain the information it needs to resolve any issues. The CAISO expects that it can do the same in this case and hopes to be able to work with Oakland to resolve this one outstanding issue in the near future. In light of this, the CAISO requests that the Commission provide the parties with a reasonable opportunity, until January 31, 2008, to resolve this issue before initiating either a hearing or settlement judge procedures.

#### **V. Conclusion**

For the foregoing reasons, the CAISO respectfully request that the Commission (i) grant the CAISO's Motion to Intervene in the above-captioned proceeding giving the CAISO full

rights of a party, and (ii) in consideration of the CAISO's Protest, rule that the rate schedules set forth in Oakland's filing have not been shown to be just and reasonable; suspend the rate schedules subject to hearing, establish a refund date equal to the proposed effective date, January 1, 2008, and hold in abeyance all hearing or settlement judge procedures until January 31, 2008 to give the parties an opportunity to resolve the single outstanding issue.

Respectfully submitted,

/s/ Mary Anne Sullivan

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Counsel for  
California Independent System  
Operator Corporation

Dated: November 21, 2007

## CERTIFICATE OF SERVICE

I hereby certify that I have this 21<sup>st</sup> day of November, 2007 caused to be served a copy of the forgoing Motion to Intervene and Protest upon all parties listed on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

/s/ Karin L. Larson  
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