

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

Geysers Power Company, LLC)

Docket No. ER02-188-000

**REQUEST TO REJECT OR
IN THE ALTERNATIVE MOTION TO INTERVENE, PROTEST, AND MOTION
FOR DIRECTION TO SUPPLEMENT THE FILING AND EXTENSION OF TIME
OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR**

Pursuant to Rules 211, 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. §§ 385.211, 385.212 and 385.214 and the Commission's November 1, 2001, Notice of Filing, the California Independent System Operator Corporation ("ISO") hereby requests the Commission to reject the October 30, 2001, filing of Geysers Power Company, LLC ("Geysers") in the above-captioned proceeding. In the alternative, the ISO moves to intervene and protest, moves for a direction to supplement the filing and requests an extension of time. In support thereof, the ISO states as follows:

I. COMMUNICATIONS

Please address communications concerning this filing to the following persons:

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II. BACKGROUND

On October 30, 2001, Geysers submitted an informational rate filing proposing rate revisions under its Reliability Must-Run (“RMR”) Service Agreements.¹ The filing was made in accordance 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. Geysers’ filing was intended to provide updated cost information used in determining the Annual Fixed Revenue Requirement and the Variable O&M Rates to be effective January 1, 2002. On November 1, 2001, the Commission issued a “Notice of Filing” setting November 20, 2001, as the final date for interventions and protests.

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).

III. BASIS FOR THE REQUEST TO REJECT

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

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.

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

Specifically, Geysers failed to provide detailed workpapers showing the derivation of costs under the Formula, clearly identified depreciation rates, or a comparison of the major components of the resulting revenue requirement, as required by Items 1,2, and 3. Without this information, the ISO will be unable to make a determination as to whether Geysers' proposed changes are acceptable.

Geysers allowed the ISO to review a draft of the Information Package prior to filing it on October 30, 2001. The week prior to October 30, an ISO representative informed Geysers' representatives over the telephone that their draft Information Package was deficient as described above. Nonetheless, Geysers filed an Information Package almost identical to the draft Information Package reviewed by the ISO in terms of level of detail provided.

Since notwithstanding this prior communication, Geysers did not comply with the requirements of Schedule F, the ISO requests the Commission to reject Geysers' filing and suspend any further proceedings until and unless an adequate Information Package is submitted to the ISO and FERC in accordance with the requirements of Schedule F.

IV. 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 Pacific Gas and Electric Company, 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 Geysers' 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.

V. PROTEST

If the Commission declines to reject Geysers' filing, the ISO protests Geysers' October 30 filing because of Geysers' failure to comply with Schedule F's requirements concerning the Information Package, and the consequent inability of the ISO to verify the propriety of Geysers' proposed rate changes. 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 Geysers 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. In addition, the ISO reserves the right to supplement its protest, if warranted.

VI. REQUEST FOR DIRECTION TO SUPPLEMENT THE FILING AND EXTENSION OF TIME FOR DISCOVERY AND PROTEST

The Commission, in its November 1 Notice of Filing in this proceeding, allowed the standard 21 days for the filing of interventions and protests. However, Schedule F 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.

The ISO respectfully requests that the Commission issue a direction to supplement the Information Package, and notice extending the time for discovery requests and to file protests in conformance with the time set forth in the RMR Agreement.

As noted above, Geysers' October 30 filing does not meet the requirements of Schedule F, and Geysers does not appear to have any intention of correcting the deficiencies. Accordingly, if it declines to reject Geysers' filing as incomplete, the Commission should, at a minimum, direct Geysers to supplement its Information Package and supply the information that is currently lacking.

The ISO notes that obtaining the information through the discovery process subsequent to submission of a complete Information Package by RMR Owners is not the same as obtaining the information as part of a complete

Information Package. First, as described in further detail below, timelines for discovery and protest were designed to run based upon when the ISO, FERC and affected parties received a full Information Package. If RMR Owners are not required to provide complete Information Packages in the first instance, the ISO, FERC staff and affected parties will have to use time provided for detailed discovery to obtain the base line information that should have been provided up front and will not have the time to conduct the same level of detailed discovery provided for in Schedule F. Moreover, whereas the Information Package is required to be posted publicly on the ISO website, subsequent discovery responses may be subject to confidential treatment. Thus, the confidentiality provisions for information in the Information Package and information obtained through discovery are different.

Further, the Commission should extend 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 by the ISO and FERC (in the case of Geysers, receipt of the outstanding information listed above). Parties to the *pro forma* RMR Agreement contemplated that additional time would be necessary to review the 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.

VII. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission reject Geysers' October 30 filing. In the alternative, if the Commission declines to reject Geysers' filing, the ISO respectfully requests that the Commission permit the ISO to intervene and that it be accorded full party status in this proceeding. In addition, the ISO enters a protective protest of Geysers' filing and further requests that the Commission direct Geysers to supplement its Information Package. Finally, the ISO requests the Commission to 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 Geysers submits to the ISO and FERC a complete Information Package as required under Schedule F of the RMR Agreement.

Respectfully submitted,

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

Date: November 20, 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 20th day of November, 2001.

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November 20, 2001

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

**Re: Geysers Power Company, LLC
Docket No. ER02-188-000**

Dear Secretary Boergers:

Enclosed for filing in the above-captioned proceeding are an original and fourteen (14) copies of the Request to Reject or, in the alternative, Motion to Intervene and Protest, and Motion for Direction to Supplement the Filing and Extension of Time of the California Independent System Operator. 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