

97 FERC - 61, 295
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, Linda Breathitt,
and Nora Mead Brownell.

Geysers Power Company, LLC

Docket No. ER02-236-000

ORDER CONDITIONALLY ACCEPTING
REVISED RATE SHEETS

(Issued December 19, 2001)

In this order, the Commission conditionally accepts and nominally suspends Geysers Power Company, LLC's (Geysers Power) revised rate sheets, subject to the outcome of the proceeding in Docket No. ER02-188-000 and subject to refund. This order is in the public interest, because it benefits customers by allowing Geysers Power to continue providing must-run generation to the California Independent System Operator Corporation (California ISO) and, at the same time, affords the parties time to resolve potential issues regarding this matter.

Background

Geysers Power provides service to the California ISO pursuant to its Reliability Must-Run Agreement (RMR Agreement), which is a specialized service agreement that the California ISO uses to enhance grid reliability, meet local reliability needs,

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and manage intra-zonal congestion. Geysers Power is required to annually adjust its rates using the formula detailed in Schedule R of the RMR Agreement and to submit a Schedule F informational filing detailing its annual fixed revenue requirement (AFRR) and its variable operation and maintenance rates (VOM rates) for RMR facilities. Geysers Power made such a filing on October 30, 2001, in Docket No. ER02-188-000.

On November 1, 2001, Geysers Power filed revised rate sheets for the Geysers

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RMR Agreements follow a generic, standard-form that was agreed to as part of a settlement approved in California Independent System Operator Corporation, et al., 87 FERC - 61,250 (1999). Under the terms of the settlement, each RMR owner files annual updates to the RMR Agreements.

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Main reliability must-run rate schedules (RMR schedules) for the Geysers Main geothermal facilities, which are owned by Geysers Power. The rate schedules govern the rates, terms, and conditions for the provision of RMR services from Geysers Power units to the California ISO. Geysers Power requests that these revisions become effective January 1, 2002 in accordance with the terms of the RMR Agreements. In addition, Geysers Power requests the following waivers of the Commission's regulations: 18 C.F.R. 35.13(a)(2), (c), (d), (e), and (h).

Notice of Filing, Protests, and Comments

Notice of Geysers Power's revised rate sheets was published in the Federal Register, 66 Fed. Reg. 57,064 (2001), with interventions, comments, and protests due on or before November 23, 2001.

The State of California Electricity Oversight EOB (California EOB) and the California Public Utilities Commission (California PUC) both filed protests, stating that they and other affected parties have identified significant substantive concerns about the data set forth in Geysers Power's Schedule F filing in Docket No. ER02-188-000 that purport to justify these updated revenue requirements. According to California EOB and California PUC, the instant filing by Geysers Power should present routine annual updates of such matters as contract service limits, hourly availability charges, and penalty rates for the RMR units covered by the filing. However, the instant filing also revises the AFRR

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and VOM for the units. California EOB and California PUC state that this presents obvious logistical problems including the fact that the issue of the appropriateness of the AFRR and VOM rates for the Geysers Main RMR units might have to be litigated twice, once in a Docket No. ER02-188-000 and again in Docket No. ER02-236-000. Therefore, California EOB and California PUC protest Commission consideration of the appropriate AFRRs and VOM rates for the Geysers Main units covered by the filing in this Docket No. ER02-236-000. Accordingly, California EOB and California PUC request that the Commission's consideration of the appropriate AFRRs and VOM rates for the RMR units covered by this filing should be severed from this Docket No. ER02-236-000 and consolidated with the Commission's consideration of Geysers Power's Schedule F filing in Docket No. ER02-188-000. However, if the Commission does not sever the AFRR and VOM rate issues from the instant proceeding,

California EOB and California PUC also protest in this

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This is the first year that annual updates include any changes to the AFRR values and rates. Pursuant to the RMR Agreement, the AFRR values and the rates have been subject to a rate freeze that expires on December 31, 2001. See 87 FERC at 61,250.

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 proceeding the justness and reasonableness of the costs of the
 Geysers Power's increased AFRRs.

Pacific Gas and Electric Company (PG&E) and the California Independent System Operator Corporation (California ISO) submitted a protest, requesting the following: (a) the Commission require Geysers Power to correct the average other outage hours and target available hours values in Table B-5; (b) reject the proposed rate increases for the Unit 5 Battery charges, the Unit 6 Battery Chargers, the Unit 14 Big sulfur Creek II/III Pump, and the Unit 14 Turbine Steam Path, unless and until Geysers Powers shows the actual costs for these projects and shows the projects have actually been placed in service; (c) for projects with actual costs that exceed California ISO approved costs, either reject the rates outright, accept a rate based on California ISO approved costs with Geysers Power's right to file for an increase if Geysers Power prevails in ADR or accept the rates based on Geysers Power's actual costs but suspend them and make them subject to the refund based on the outcome of ADR; (d) either (i) reject the proposed values of AFRR in Table B-6 outright, (ii) accept the AFRR and associated rates in Table B-1 and B-3 but suspend them and make them subject to refund based on the outcome of Docket No. ER02-188-000, or (iii) sever consideration of AFRR values from this docket and consolidate the issue with Docket No. ER02-188-000; (e) require Geysers Power to promptly allocate the AFRR based on correct historical service hours; (f) require Geysers Power to provide a dollar amount in Schedule A, part 13, based on the outcome of Docket No. ER02-188-00; and (g) require Geysers Power to provide revisions to Schedule C, Part 2, to reflect Geysers Power's contention in Docket No. ER02-188-000 that there are no variable fuel costs for geothermal steam and the steam price in equation C2-1 is \$0/MWh.

On December 13, 2001, California ISO filed a motion to establish a January 1, 2002 refund date. California ISO argues that certain rates proposed in Geysers Power's October 31, 2001 filing are subject to the outcome of Docket No. ER02-188-000.

Discussion

A. Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.214 (2001), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

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 The protests urge the Commission not to accept Geysers

Power's revised AFRR values and VOM rates contained in Schedule B, because the same issue is pending in Docket No. ER02-188-000. Additionally, they argue that the parties would have to litigate these issues twice if the Commission were to consider the justness and reasonableness of the AFRR values and VOM rates in the instant docket.

The Commission agrees that it is inefficient and unnecessary to consider the issues more than once. The revised tariff sheets filed by Geysers Power in Docket No. ER02-236-000 represent revised rates, which are based on the proceeding in Docket No.

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ER02-188-000. We find that the proposed tariff revisions have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, the Commission conditionally accepts and nominally suspends the revised tariff sheets, subject to the outcome of the proceeding in Docket No. ER02-188-000 and subject to refund. We will conditionally grant the requested waivers, subject to the outcome of the proceeding in Docket No. ER02-188-000.

The Commission orders:

(A) The Commission hereby conditionally accepts and nominally suspends the revised tariff sheets, subject to the outcome of the proceeding in Docket No. ER02-188-000 and subject to refund, effective January 1, 2002.

(B) Geysers Power's request for waiver of the Commission's regulations set forth in 18 C.F.R. 35.13(a)(2), (c), (d), (e), and (h) is hereby granted, subject to the outcome of the proceeding in Docket No. ER02-188-000.

By the Commission.

(S E A L)

Linwood A.
Watson, Jr.,

Acting
Secretary.

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In Docket No. ER02-188-000, the comment period expires January 15, 2002. The case is currently under review.