

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

CalPeak Power- El Cajon, LLC) Docket No. ER04-517-000

**MOTION TO INTERVENE AND COMMENTS 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 February 4, 2004 Notice of Filing, the California Independent System Operator Corporation (“ISO”)¹ hereby moves to intervene in the above-captioned proceeding. In support thereof, the ISO states as follows:

I. DESCRIPTION OF PROCEEDING

On January 30, 2004, CalPeak Power LLC, on behalf of CalPeak Power—El Cajon, LLC (“CalPeak”) filed an unexecuted Must-Run Service Agreement and accompanying schedules (“RMR Agreement”) between the CalPeak and the ISO setting forth the rates, terms and conditions under which CalPeak proposes to provide reliability must-run services to the ISO for the 2004 Contract Year. On February 20, 2004, the same day that the ISO is filing this motion to intervene and comment, CalPeak is filing substitute rate schedule sheets setting forth revisions to the RMR Agreement. CalPeak owns and operates a simple cycle natural gas-fueled combustion turbine package with a nominal electric capacity of 49 MW (“RMR facility”). The ISO identified CalPeak’s RMR facility through its annual Local Area Reliability Services process as a potential

¹ Capitalized terms not otherwise defined herein are used in the sense given in the Master Definitions Supplement, Appendix A to the ISO Tariff, as filed August 15, 1997, and subsequently revised.

resource that could be used to meet the ISO's reliability needs for 2004. CalPeak requests a waiver of the 60-day prior notice requirement pursuant to 18 C.F.R. § 35.11 to permit an effective date for the RMR Agreement of February 1, 2004.

II. DESCRIPTION OF THE ISO AND COMMUNICATIONS

The ISO 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 ISO 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 San Diego Gas & Electric Company ("SDG&E"), as well as for the coordination of the competitive ancillary services and real-time electricity markets in California.

Please address communications concerning this filing to the following persons:²

Sidney L. Mannheim
Regulatory Counsel
California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 608-7144
Fax: (916) 608-7222

Deborah A. LeVine
Director of Contracts & Special Projects
California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 351-2144
Fax: (916) 351-2487

Mary Anne Sullivan
Hogan & Hartson L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004
Tel: (202) 637-3695
Fax: (202) 637-5910

² Pursuant to Rule 101(e), 18 C.F.R. § 385.101(3), the ISO requests waiver of the Commission's limit on persons to be served, as set forth in 18 C.F.R. § 385.203(b)(3).

III. BASIS FOR MOTION TO INTERVENE

CalPeak's RMR facility is located within SDG&E's transmission system and is needed to maintain the reliability of the SDG&E transmission system. As the Control Area Operator responsible for maintaining reliability in the SDG&E transmission system and as the counter party to the RMR Agreements, the ISO has a unique interest in any Commission proceeding concerning the terms and conditions of an RMR Agreement. Accordingly, the ISO has a direct and substantial interest in the proposed RMR Agreement 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 ISO's interests in this proceeding, the ISO's intervention is in the public interest and should be granted.

IV. COMMENTS

Since CalPeak's January 30, 2004 original submission in this docket, the ISO has been working with CalPeak to resolve the outstanding issues, and the ISO believes that all the outstanding issues identified to date have been resolved through CalPeak's concurrent filing of substitute rate schedule sheets. However, because CalPeak's filing is being made on the due date for the ISO's intervention, the ISO has not had the opportunity to complete a thorough review of CalPeak's filings in order to ensure that the filings are consistent with the understanding the ISO believes it reached with CalPeak. This will be required before the ISO can approve and execute the RMR Agreement. Because of the possibility that the ISO may identify unanticipated concerns during a final review, the ISO reserves the right to address any errors or concerns that are discovered after the filing of these Comments.

V. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission grant this motion to intervene and accept CalPeak's January 30, 2004 submission, as amended by the revisions submitted in its February 19, 2004 filing, effective as of February 1, 2004.

February 20, 2004

Respectfully submitted,

/s/ Sidney L. Mannheim

Sidney L. Mannheim
Regulatory Counsel
California Independent System Operator
Corporation
151 Blue Ravine Rd.
Folsom, California 95630
Tel. (916) 608-7144



February 20, 2004

BY ELECTRONIC TRANSMISSION

The Honorable Magalie Roman Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: CalPeak Power – El Cajon, LLC, Docket No. ER04-517-000

Dear Secretary Salas:

Enclosed please find an electronic filing of the Motion to Intervene and Comments of the California Independent System Operator Corporation. Thank you for your attention to this filing.

Very truly yours,

/s/ Sidney L. Mannheim

Sidney L. Mannheim

Counsel for the California Independent
System Operator Corporation

Enclosures

cc: All parties of record

CERTIFICATE OF SERVICE

I hereby certify that I have on this 20th day of February 2004, served copies of the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/ Sidney L. Mannheim

Sidney L. Mannheim