



November 19, 2004

VIA ELECTRONIC FILING

The Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Pacific Gas and Electric Company
Docket Nos. ER05-113-000 and ER05-125-000**

Dear Secretary Salas:

Transmitted herewith for electronic filing in the above-referenced proceedings is the Provisional Protest of the California Independent System Operator Corporation.

Thank you for your attention to this matter.

Yours truly,

/s/ Sidney L. Mannheim
Sidney L. Mannheim
Regulatory Counsel

Counsel for the California Independent
System Operator Corporation

Enclosure

cc: Service List

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

Pacific Gas and Electric Company) Docket No. ER05-113-000
) ER05-125-000

**PROVISIONAL PROTEST OF THE CALIFORNIA
INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.211 (2004), and the Commission’s November 4, 2004 Notices of Filing, the California Independent System Operator Corporation (“CAISO”) submits this Provisional Protest in the captioned proceedings. In support thereof, the CAISO states as follows:

I. Background

On October 28, 2004, Pacific Gas and Electric Company (“PG&E”) made its annual informational filing under Schedule F of its Reliability Must Run (“RMR”) Agreements with the CAISO for Helms Power Plant, Humboldt Bay Power Plant, Hunters Point Power Plant, San Joaquin Watershed, and Kings River Watershed (collectively “RMR Facilities”)¹ updating the Annual Fixed Revenue Requirements (“AFRRs”) and Variable O&M Rates (“VOMRs”) for the RMR Facilities (“Schedule F Filing”) in Docket No. ER05-125-000. Schedule F establishes the procedure and methodology for determining the AFRRs and VOMRs for generating resources

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 CAISO Tariff.

designated as RMR Units.² The Schedule F Filing provided updated cost information used in determining the AFRRs and the VOMRs to be effective January 1, 2005. On November 4, 2004, the Commission issued a “Notice of Filing” in Docket No. ER05-125-000 setting November 19, 2004, as the date for interventions, comments and protest. On November 12, 2004, the Commission issued an “Errata Notice correcting the comment date to be December 13, 2004.

Additionally, on October 28, 2004, PG&E filed, pursuant to Section 205 of the Federal Power Act (“FPA”), its annual rate updated for Contract Year 2005, including rate schedule sheet revisions to its RMR Agreements with the CAISO for the RMR Facilities (“§ 205 Filing”) in Docket No. ER05-113-000. The § 205 Filing updates rates that either (1) results from the new AFRR’s and VOMR’s set forth in the Schedule F Filing, or (2) are otherwise provided for on an annual basis in the RMR Agreements. For each of the RMR Facilities, updates are made to a number of the RMR Rate Schedules including: The Contract Service Limits and Owner’s Repair Cost Obligation in Schedule A, the values in Tables B-1 through B-6 in Schedule B, and the Prepaid Start-up Charges in Schedule D. On November 4, 2004, the Commission issued a “Notice of Filing” in Docket No. ER05-113-000 setting November 19, 2004, as the date for interventions, comments and protests.

On November 12, the CAISO filed a motion to intervene and consolidate PG&E’s two RMR-related dockets and further requested a 45-day comment period, as provided in Schedule F of the RMR Agreement. Although the Commission extended the comment period to December 13, 2004 in ER05-125 pursuant to the Commission’s

² The Schedule F Filing was made in compliance with the terms of a settlement agreement approved by the Commission 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. California Independent System Operator Corp., 87 FERC ¶ 61,250 (1999).

November 12, 2004 Errata Notice, the Commission has not consolidated the two dockets. Accordingly, the CAISO is filing this provisional protest of both RMR filings on November 19, 2004. However, the CAISO reserves its right to supplement its protest upon further review and analysis of PG&E's Schedule F filing.

II. Provisional Protest

A. Schedule F Filing-Docket No. ER05-125

Based on its initial review of the Schedule F Filing, the CAISO has identified the following problems. Generally, PG&E has failed to provide adequate supporting data to allow the CAISO to determine whether the proposed AFRRs are just and reasonable. More specifically:

1. PG&E failed to provide an adequate comparison of the proposed 2005 revenue requirements to the prior year's requirements as required by Article I Part B of Schedule F. The comparison is necessary for each element of the Schedule F formula in order to understand which elements contribute the large differences of the rates between 2004 and 2005.

2. The PG&E filing proposes substantial and unjustified increases in O&M costs for the RMR Facilities (e.g., O&M increase from \$4.5 to \$7.8 million for San Joaquin Watershed).

B. § 205 Filing- Docket No. ER05-113

Based on its initial review of the § 205 Filing, the CAISO has identified the following problems:

1. PG&E has failed to provide any supporting data regarding its Hourly Capital Item Charges for the RMR Units. Pursuant to the RMR Agreements, PG&E may only include approved Capital Item costs in the Hourly Capital Item Charges.

The CAISO has not been able to verify that the Capital Item costs are the approved amounts.

2. The § 205 Filing includes annual rate updates for charges to the CAISO that are calculated using the AFRRs as proposed in the Schedule F Filing. As stated above, PG&E has failed to justify the proposed AFRRs for the RMR Facilities for Contract Year 2005. Thus, to the extent these unjustified costs were used to calculate the proposed rates filed in the § 205 Filing, those proposed rates are unjust and unreasonable.

Section 35.13 of the Commission's regulations requires a filing for a rate schedule change to include supporting information. A filing is deficient absent such supporting information or waiver of the Commission's regulations. See, 18 C.F.R. § 35.5 (2004). Accordingly, the CAISO urges the Commission to issue a deficiency letter requiring PG&E to file supporting data in a compliance filing within fifteen (15) days of the issuance of the deficiency letter; or in the alternative, rule that the rates set forth in PG&E's filing have not been shown to be just and reasonable; suspend the rates subject to hearing and establish a refund date equal to the proposed effective date, January 1, 2005. Should the Commission suspend the rates, the CAISO request that the Commission hold the hearings in abeyance for 45 days, until January 2, 2005 to give the parties time to attempt to resolve outstanding issues associated with the PG&E Schedule F Filing.³

³ To date, the CAISO, the California Public Utility ("CPUC"), and the California Electricity Oversight Board ("EOB") have engaged in informal discovery and discussions with PG&E to provide the CAISO with the information needed to fully review the filings. Without the additional information, the CAISO has not been able to confirm whether or not the proposed AFRRs, VOMRs and the corresponding rates filed by PG&E are just and reasonable and consistent with the RMR Agreement and Schedule F. However, because of the November 19th protest deadline, the CAISO files this Provisional Protest in order to preserve its rights to litigate any issues that cannot be promptly resolved, while still affording all of the

III. Conclusion

For the foregoing reasons, the CAISO respectfully requests that the Commission issue a deficiency letter requiring PG&E to file supporting data in a compliance filing within fifteen (15) days of the issuance of the deficiency letter; or in the alternative, rule that the rates set forth in PG&E's filing have not been shown to be just and reasonable; suspend the rates subject to hearing and establish a refund date equal to the proposed effective date of January 1, 2005 and defer action on the § 205 Filing for 45 days, to give the parties time to attempt to resolve outstanding issues associated with the PG&E Schedule F Filing and to consider the additional § 205 Filing PG&E is required to submit on December 15, 2004 to update the Contract Service Limits for its hydroelectric facilities.

Dated: November 19, 2004

Respectfully submitted

/s/ Sidney L. Mannheim

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parties an ample opportunity to move this case toward settlement. The 45-day deferral of Commission action in these proceedings would allow the parties to continue to informally resolve this matter.

CERTIFICATE OF SERVICE

I hereby certify that I have this 19th day of November, 2004 caused to be served a copy of the forgoing document upon all parties listed on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

/s/ Sidney L. Mannheim

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