

January 18, 2001

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

Re: Geysers Power Company, LLC
Docket No. ER01-812-000

Dear Secretary Boergers:

Enclosed for filing are an original and fourteen copies of the Motion to Intervene and Protest submitted by the California Independent System Operator Corporation in the above-captioned proceeding.

Also enclosed are two extra copies of the filing to be time/date stamped and returned to us by the messenger. Thank you for your assistance.

Respectfully submitted,

J. Phillip Jordan
Rebecca A. Blackmer
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Washington D.C. 20007

Counsel for the California
Independent System Operator Corporation

Enclosure

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

Geysers Power Company, LLC) Docket No. ER01-812-000

**MOTION TO INTERVENE AND PROTEST OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.211 and 385.214, and the Commission’s January 4, 2001 “Notice of Filing,” the California Independent System Operator Corporation (“ISO”) hereby protests and moves to intervene in the above-captioned proceeding. In support thereof, the ISO states as follows:

I. COMMUNICATIONS

Please address communications concerning this filing to the following persons:

*Beth Ann Burns,
Regulatory Counsel
Deborah Le Vine, Director of
Contracts & Compliance
The California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 608-7135
Fax: (916) 608-7222

J. Phillip Jordan
*Rebecca A. Blackmer
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007
Tel: (202) 424-7500
Fax: (202) 424-7643

*Persons designated for official service pursuant to Rule 2010.

II. BACKGROUND

On December 27, 2000, Geysers Power Company, LLC (“Geysers”) tendered for filing revised rate schedules to its Reliability Must-Run Agreement (“RMR Agreement”) between Geysers and the ISO for service year 2001 (“December 27 Filing”). The RMR Agreement pertains to the Geysers Main geothermal facilities that provide RMR service to the ISO. In accordance with the terms of the RMR Agreement,¹ Geysers’ filing revises contract service limits, hourly availability charges, capital items, hourly penalty rates, target available hours, and the start-up payment provisions.

III. MOTION TO INTERVENE

The ISO is a non-profit public benefit corporation organized under the laws of the State of California. It is 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 electricity market in California. The ISO is the sole purchaser of the services provided under the RMR Agreement that is the subject of this proceeding. The ISO therefore has a substantial interest in this proceeding. Further, because the ISO is charged with the nondiscriminatory operation of the ISO Controlled Grid, the ISO’s participation in this proceeding is in the public interest. Accordingly, the ISO requests that it be permitted to intervene in this proceeding with full rights of a party.

¹ Geysers Main RMR Agreement was approved by the Commission in *California Independent System Operator Corp., et al.*, 87 FERC ¶ 61,250 (1999).

IV. PROTEST

Pursuant to Section 7.4(a) of the RMR Agreement, Geysers submitted to the ISO preliminary and final reports of its proposed Capital Items² for the 2001 Contract Year. Under this provision of the RMR Agreement, the final report must reflect any updated information on proposed Capital Items. The ISO approved all of Geysers' proposed Capital Items, based in part on estimated costs included in the final report, for the 2001 Contract Year. However, Geysers' December 27 Filing reflects approximately \$1 million in additional costs for one of the proposed Capital Items (Turbine Steam Path Replacement for Unit 14) that were not included in the final report. Geysers neither sought, nor did the ISO grant, approval for these additional costs. Section 7.4(c) of the RMR Agreement is clear that if the actual cost of a Capital Item exceeds the estimated cost, the ISO may initiate ADR procedures to determine whether the additional costs were reasonable. The ISO is not obligated to pay any portion of a cost overrun that is found to be unreasonable. Similarly, the ISO should not be obligated to pay any estimated costs it did not approve. The ISO therefore requests that the Commission not approve this particular Capital Item so that it can consider Geysers' proposed additional costs and pursue resolution through ADR if necessary.

The ISO also objects to the timing of portions of Geysers' filing as being premature. The ISO maintains Geysers' filing is premature to the extent that it seeks Surcharge Payments for Capital Items that have not been completed and

² Capitalized terms that are not defined in this pleading have the same meaning set forth in Article I, Definitions, of the RMR Agreement.

placed into service. The anticipated in-service dates for some of the Capital Items extend into the fourth quarter of 2001 and as far as April 2002. Since these projects have not yet been completed, the final costs of these projects are not known and establishing the Surcharge Payments now based on such preliminary costs will likely result in rates that ultimately prove to be incorrect. Furthermore, if the final costs of the completed Capital Items exceed the estimated costs, the ISO, as mentioned above, has the right to challenge these costs through ADR as provided in the RMR Agreement.

Finally, the ISO reserves the right to file supplemental comments in this proceeding if additional issues arise or if the Commission approves Geysers' filing as submitted.

V. CONCLUSION

Wherefore, for the foregoing reasons, the ISO respectfully requests that the Commission permit it to intervene, that it be accorded full party status in this proceeding, that the Commission not approve the additional costs for the Unit 14 Turbine Steam Path Replacement Capital Item, and that the Commission disallow the collection of Surcharge Payments for Capital Items that have not been completed.

Respectfully submitted,

Beth Ann Burns,
Regulatory Counsel
Deborah Le Vine, Director of
Contracts and Compliance
California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 608-7135
Fax: (916) 608-7222

J. Phillip Jordan
Rebecca A. Blackmer
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007
Tel: (202) 424-7500
Fax: (202) 424-7643

Counsel for the California Independent
System Operator Corporation

Dated: January 18, 2000

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents upon each person designated on the Official Service List compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Washington, D.C. on this 18th day of January 2001.

Rebecca A. Blackmer
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Washington, D.C. 20007

Counsel for the California Independent
System Operator Corporation