



November 2, 2004

VIA ELECTRONIC FILING

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

**Re: Mirant Delta, LLC and Mirant Potrero, LLC
Docket No. ER05-32-000**

Dear Secretary Salas:

Enclosed please find the Motion to Intervene and Protest of the California Independent Operator submitted today in the above- captioned proceeding.

Thank you for your attention to this matter.

Respectfully Submitted,

/s/ Sidney L. Mannheim
Sidney L. Mannheim

Regulatory Counsel
California Independent
System Operator Corporation

Enclosure

cc: Service List

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

Mirant Delta, LLC) **Docket No. ER05-32-000**
Mirant Potrero, LLC)

**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. § 385.214 (2003), and § 385.211 (2003) and the Commission’s October 18, 2004 Notice of Filing, the California Independent System Operator Corporation (“ISO”) submits this Motion to Intervene and Protest in the above captioned proceeding. In support thereof, the ISO states as follows:

I. DESCRIPTION OF THE PROCEEDING

On October 12, 2004, Mirant Delta, LLC (“Mirant Delta”) and Mirant Potrero, LLC (“Mirant Potrero”) (collectively “Mirant”) filed, pursuant to Section 205 of the Federal Power Act (“FPA”), revisions to certain Reliability Must-Run Rate Schedules of its Reliability Must Run Agreements (“RMR Agreements”) with the ISO pertaining to generation facilities currently owned by Mirant Delta (known as the Contra Costa and Pittsburg Power Plants), and Mirant Potrero (known as the Potrero Power Plant). The stated purpose of Mirant’s filing is to revise the Ramp Rate values set forth in Schedule A of the RMR Agreements in response to ISO Amendment No. 54 (ER03-1046-000) and the ISO’s “instructions.” Pursuant to Amendment 54 as part of Phase 1B of the ISO’s Market Redesign and Technology Upgrade (MRTU) and effective as of October 1,

2004, the ISO was required, among other things, to set the ISO Master File ramp rates for resources subject to RMR Agreements equal to the Ramp Rate values set forth in Schedule A of the RMR Agreements. Prior to changing the ISO Master File values, the ISO provided all RMR owners with the opportunity to modify Schedule A of their RMR Agreements to reflect the ramp rates in the ISO Master File. For those RMR owners electing to adopt the values in the ISO Master File as the values for Schedule A of their RMR Agreements, the ISO would not be required to change the values in the ISO Master File. Mirant requested an effective date of October 1, 2004 for each of the proposed changes to Schedule A of their RMR Agreements.

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 the electric grid comprising the transmission systems of a number of public utilities including Pacific Gas and Electric Company (“PG&E”), as well as the coordination of the competitive ancillary services and real-time electricity markets in California.

The ISO requests that all communications and notices concerning this motion and these proceedings be provided to:

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

Deborah A. LeVine
Director of Contracts
California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
916-351-2144 (tel)
916-608-7222 (fax)

III. ISO'S INTEREST

Mirant's RMR Units are located within PG&E's transmission system and are needed to maintain the reliability of the PG&E transmission system. As the Control Area Operator responsible for maintaining reliability in the PG&E transmission system and as the counter party to the RMR Agreements, the ISO has a unique interest in any Commission proceeding that affects an RMR Agreement. Accordingly, the ISO has a direct and substantial interest in the proposed changes 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. Protest

Based on its initial review of the Limited 205 Filing, the ISO has identified two interrelated problems:

1. Requested Effective Date: Although Mirant submitted its rate filing on October 12, 2004, it requested an October 1, 2004 effective date. As discussed in greater detail below, the ISO would only be able to accommodate a retroactive effective date if the proposed Ramp Rate values for the amended Schedule A of Mirant's October 12, 2004 submission matched the ramp rates in the ISO's Master File between October 1, 2004 and October 12, 2004. If the Ramp Rate values proposed in amended Schedule A do not match the ISO's Master File (or for RMR owners that did not elect to make any filings seeking to change the Ramp Rate values in Schedule A), the effective Ramp Rate on file in Schedule A of the relevant RMR Agreement in effect prior to

October 1, 2004 would be the relevant Ramp Rate for the October 1 through October 12 time period.

Although implementation of Phase 1 B of the ISO's MRTU has been an overall success, one matter that was overlooked was the ISO's obligation to change the Master File ramp rates for RMR owners that did not elect to submit Section 205 filings to conform their RMR Schedule A Ramp Rate values to the values set forth in the ISO's Master File. Accordingly, all ISO non-RMR dispatches between October 1, and October 12 were based on the existing Master File ramp rates and not the Ramp Rate values set forth in Schedule A of the relevant RMR Agreements. On October 8, the ISO notified all RMR owners of this error and, again, suggested that owners that desired to use their existing Master File rates in lieu of their existing RMR Schedule A Ramp Rate values make a section 205 filing to adopt the Master File values as the relevant values for Schedule A.¹ Mirant responded with its October 12, 2004 submission.

2. Mirant's Proposed Schedule A amended Ramp Rate values differ from Master File values: Initially, the ISO had indicated the proposed effective date for changes to Schedule A of the RMR Agreements should be October 1, 2004 to coincide with the effective date of Amendment No. 54. Once it became apparent that the RMR Schedule A Ramp Rate values had not been imported into the ISO's Master File, the ISO indicated that it would be willing to consider an October 1, 2004 effective date for

¹ By a market notice issued on or about the date of this intervention and protest, the ISO has advised RMR owners of its proposal for settling transactions between October 1, 2004 and the date on which the Schedule A Ramp Rate value match the values in the ISO's Master File as follows: 1) the expected energy calculations included on the Conformed Dispatch Notices ("CDN") and used to validate the RMR Invoices will use the effective Ramp Rate in Schedule A of the RMR Agreement for the payment of ramping energy (no penalty will be imposed as a result of complying with the Master File ramp rate that is lower than the value declared in the RMR Agreement) and 2) market dispatches will be settled using the ramp rates in the ISO's Master File actually used by the ISO in dispatches from October 1-12 or until such time as the Ramp Rate values in Schedule A of the RMR Agreement match the values in the ISO's Master File for RMR Unit owners that amend Schedule A to values different from the values in the ISO's Master File

those RMR owners that still desired to use the Master File values rather than the Schedule A Ramp Rate values but, for whatever reason, had not yet submitted a 205 filing to modify the Ramp Rate in Schedule A. This offer, however, was conditioned entirely upon the assumption that the RMR Owner would be adopting the existing Master File values, *i.e.* that the amended RMR Schedule A Ramp Rate values would be exactly identical to the values contained in the ISO Master File from October 1, 2004 through October 12, 2004.

Unfortunately, the Ramp Rate values Mirant Delta proposed in its amended Schedule A for the Contra Costa and Pittsburg RMR Agreements do not match the values contained in the Master file from October 1, 2004 to October 18, 2004 (for Contra Costa Unit 7) and from October 1, 2004 to October 14, 2004 (for Pittsburg Unit 7). (The Ramp Rate proposed for the revised Schedule A to the Mirant Potrero RMR Agreement do match the values contained in the ISO Master File, so an October 1, 2004 effective date can be accommodated for the amended Schedule A for the Potrero RMR Agreement.)

The ISO believes that the Commission must reject the proposed retroactive effective date for the proposed Contra Costa and Pittsburg Schedule A values and approve effective dates of October 15, 2004 for the Pittsburg amendment and October 19, 2004 for the Contra Costa amendment,² in which case the ISO would calculate the ramping energy for RMR dispatches between and including October 1 and October 14 for Pittsburg, and between and including October 1 and October 18 for Contra Costa, using the RMR Ramp Rate values set forth in Schedule A to the RMR Agreements as they existed prior to the October 12, 2004 filing.

² The ISO supports waiver of the 60-day prior notice requirement to the extent the Schedule A Ramp Rate values match the values in the ISO's Master File.

V. Conclusion

For the foregoing reasons, the ISO respectfully requests that the Commission grant this Motion to Intervene and make the ISO a party in the above-caption proceeding with full rights of participation and requests that the Commission order a October 1, 2004 effective date for the Potrero amendment, a October 15, 2004 effective date for the Pittsburg amendment, and a October 19, 2004 effective date for the Contra Costa amendment in Mirant's proposed rate filing because these are the earliest dates the Mirant's proposed amended Schedule A Ramp Rate values match the ISO Master File values.

Respectfully submitted

Sidney L. Mannheim

Sidney L. Mannheim
California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630

Dated: November 2, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this 2nd day of November, 2004 caused to be served a copy of the forgoing Motion to Intervene and Protest 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
Sidney L. Mannheim