

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

March 24, 2004

In Reply Refer To:

Gilroy Energy Center, LLC	ER04-321-000
	ER04-321-001
Los Esteros Critical Energy Facility, LLC	ER04-323-000
	ER04-323-001
Creed Energy Center, LLC	ER04-324-000
	ER04-324-001
Goose Haven Energy Center, LLC	ER04-325-000
	ER04-325-001

Davis Wright Tremaine LLP  
Attn.: Ms. Lindsey How-Downing, Esq.  
Attorney for the Filing Companies  
One Embarcadero Center, Suite 600  
San Francisco, CA 94111-3611

Dear Ms. How-Downing:

1. On December 22, 2003, you submitted for filing, on behalf of Gilroy Energy Center, LLC (Gilroy), Los Esteros Critical Energy Facility, LLC (Los Esteros), Creed Energy Center, LLC (Creed), and Goose Haven Energy Center, LLC (Goose Haven) (collectively, Generators), four unexecuted reliability must-run agreements (RMR Agreements)<sup>1</sup> between the Generators and the California Independent System Operator Corporation (CAISO). The Generators' RMR Agreements were filed in response to the

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<sup>1</sup> The RMR Agreements follow a standard form that was agreed to as part of a settlement approved by the Commission. See California System Operator Corporation, et al., 87 FERC ¶ 61,250 (1999). RMR Agreements govern the rates, terms, and conditions for the provision of RMR services from various RMR units to the CAISO. An RMR unit generally is a generating facility that a transmission provider can call upon when necessary to provide energy and ancillary services essential to the reliability of the transmission network. That is, some generating units "must run" at certain times to protect the transmission system from voltage collapse, instability, and thermal overloading. The owner is paid pursuant to a formula based on the availability of the facility for service.

CAISO's designation of their units as RMR units for the calendar year 2004.<sup>2</sup> The Generators requested waiver of the Commission's 60-day prior notice requirement to permit an effective date for all four RMR Agreements of January 1, 2004.

2. Notice of the Generators' filings was published in the Federal Register, 69 Fed. Reg. 1713 (2003), with interventions and protests due on or before January 12, 2004. The CAISO, PG&E, and the State of California Electricity Oversight Board filed motions to intervene in each docket, and the CPUC filed notices of intervention in each docket. The City of Santa Clara and Silicon Valley Power filed a motion to intervene in Los Esteros' filing. The CAISO and PG&E (Protestants) filed joint protests in each of the dockets.<sup>3</sup>

3. The Protestants explained that they filed their protests to identify certain terms and conditions in the Generators' RMR Agreements to which the Generators and Protestants have not yet agreed, such as various needed language clarifications and data corrections. The Protestants requested that the Commission find that the proposed RMR Agreements were not just and reasonable and therefore suspend them, set them for hearing, and establish refund dates that are the same as the proposed effective date, January 1, 2004. However, they also asked that the Commission defer further action until February 12, 2004 to give the Protestants and the Generators time to attempt to resolve the issues.

4. On January 28, 2004, you also submitted for filing, on behalf of the Generators, revised sheets to the RMR Agreements, which you state resolve all the issues raised by the Protestants' in their protests. In addition, you included an executed signature page for each of the RMR Agreements, which was signed by the relevant generator and the CAISO.

5. Notice of the Generators' amended filings was published in the Federal Register, 68 Fed. Reg. 6280 (2004), with interventions and protests due on or before February 18, 2004. The CAISO filed comments on Los Esteros', Creed's, and Goose Haven's amended filings, stating that the issues raised by the Protestants have now been resolved by the amended filings and requesting that the Commission accept these RMR Agreements, as revised, effective on the date requested by these generators, January 1, 2004.

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<sup>2</sup> Los Esteros, Creed, and Goose Haven filed new RMR Agreements. Gilroy filed a revised RMR Agreement to reflect the fact that additional units were designated by the CAISO as RMR units.

<sup>3</sup> On January 16, 2004, the CAISO and PG&E filed a minor correction to their protest in Docket No. ER04-324-000.

6. In addition, the CAISO filed comments on Gilroy's amended filing, stating that, although the issues raised by the Protestants have now been resolved, the CAISO has identified four additional errors in the amended filing. The CAISO states that Gilroy has advised it that it will make a further amended filing to correct these errors. The CAISO requests that the Commission also accept Gilroy's revised RMR Agreement, as revised, on the date requested by Gilroy, January 1, 2004; however, the CAISO requests that the Commission make this acceptance subject to Gilroy making a filing that corrects the four errors identified by the CAISO.

7. The concerns raised in the Protestants' protests have been resolved by the amended filings, and the proposed RMR Agreements have been executed. Accordingly, we accept Los Esteros', Creed's, and Goose Haven's RMR Agreements for filing, as revised and as designated. We also conditionally accept Gilroy's revised RMR Agreement, as revised and as designated, subject to Gilroy submitting, within fifteen days of the issuance of this letter order, further revised sheets to make the four changes noted by the CAISO in its comments. In addition, we find good cause to grant the Generators' request for waiver of the Commission's 60-day prior notice requirement to permit an effective date of January 1, 2004 for the Generators' RMR Agreements.<sup>4</sup>

By direction of the Commission.

Linda Mitry,  
Acting Secretary.

Enclosure

cc: All Parties

California Public Utilities Commission  
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<sup>4</sup> See 18 C.F.R. §35.11 (2003); see also Central Hudson Gas & Electric Corp., et al., 60 FERC ¶ 61,106 at 61,338-39, reh'g denied, 61 FERC ¶ 61,089 (1992).