

155 FERC ¶ 61,162
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Dynegy Oakland, LLC

Docket Nos. ER16-207-000
ER16-207-001
ER16-207-002

ORDER ON RELIABILITY MUST-RUN AGREEMENT

(Issued May 13, 2016)

1. On October 30, 2015, Dynegy Oakland, LLC (Dynegy Oakland) filed, pursuant to section 205 of the Federal Power Act (FPA),¹ revisions to a Reliability Must-Run Agreement (RMR Agreement) with the California Independent System Operator Corporation (CAISO) (October 30 Filing).² On March 14, 2016, after discussions among the parties, Dynegy Oakland filed further revisions to the RMR Agreement submitted in its October 30 Filing (March 14 Filing). In this order, we accept Dynegy Oakland's proposed revisions to the RMR Agreement for filing, effective January 1, 2016, as requested.

I. Instant Filings

A. October 30 Filing and Protests

2. Dynegy Oakland proposed to revise the RMR Agreement to reflect annual adjustments and/or updates to Schedules A, B, D, and J for the 2016 contract year.³

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. § 35.15(a)(2) (2015).

³ On December 12, 2014, the Commission accepted, Dynegy Oakland's proposed annual adjustments and/or updates to the RMR Agreement for the 2015 contract year. *See Dynegy Oakland, LLC*. Docket No. ER15-274-000 (Dec. 12, 2014) (delegated letter order).

Dynegy Oakland stated that these revisions include changes to its annual fixed revenue requirement under Schedule F for the 2016 contract year.⁴ Specifically, Dynegy Oakland proposed to increase its annual fixed revenue requirement from \$3,027,821 for the 2015 contract year to \$3,168,917 for the 2016 contract year, which represented an approximately 4.66 percent increase over its current rate.⁵ Dynegy Oakland explained that, pursuant to the requirements specified in Schedule F of the RMR Agreement, it included an informational package detailing and supporting all calculations involved in determining its 2016 annual fixed revenue requirement and stated that it submitted this package to CAISO. Finally, Dynegy Oakland requested that the Commission accept its proposed revisions to the RMR Agreement for filing effective January 1, 2016.

3. In response to the October 30 Filing, CAISO and Pacific Gas and Electric Company (PG&E) argued that Dynegy Oakland failed to provide adequate support to establish that its revised Schedules are just and reasonable. Specifically, CAISO and PG&E contended that Dynegy Oakland failed to provide the information necessary to sufficiently support all of the cost components contained in Schedule F of the RMR Agreement, such as increases in operation and maintenance expenses, administrative and general expenses, and fees for a letter of credit.⁶ CAISO and PG&E stated that they needed additional information to understand Dynegy Oakland's proposal to increase the annual fixed revenue requirement under the RMR Agreement and that they anticipated engaging in informal, informational exchanges with Dynegy Oakland. CAISO and PG&E requested that the Commission suspend the proposed RMR Agreement subject to hearing and settlement judge procedures, and establish a refund date of January 1, 2016, but hold the requested hearing and settlement judge procedures in abeyance until January 31, 2016, so the parties could have a reasonable opportunity to resolve these issues beforehand.⁷

⁴ Dynegy Oakland explains that it calculated its 2016 annual fixed revenue requirement by applying the formulae set forth in Schedule F of the RMR Agreement to the costs it incurred during the 12-month period ending June 20, 2015. October 30 Filing at 3.

⁵ *Id.*, Appendix B, Enclosure 1.

⁶ CAISO and PG&E Joint Protest at 2.

⁷ *Id.* at 3.

B. December 3 Deferral

4. In response to CAISO and PG&E's protest, on December 3, 2015, Dynegy Oakland filed a request for deferral of Commission action on its October 30 Filing (December 3 Deferral). Dynegy Oakland stated that it provided information requested by CAISO and PG&E and indicated that the parties were engaged in settlement discussions. To enable these discussions to continue beyond the requested January 1, 2016 effective date, Dynegy Oakland refiled Schedule A of the revised RMR Agreement with a proposed effective date of December 31, 9998, to enable the Commission to defer action on the October 30 Filing.⁸

C. March 14 Filing

5. On March 14, 2016, Dynegy Oakland filed further revisions to Schedule B of the RMR Agreement,⁹ together with a Settlement Agreement among the parties.¹⁰ Specifically, Dynegy Oakland proposes to revise the annual fixed revenue requirement it proposed in its October 30 Filing from \$3,168,917 to \$3,164,577, which represents a \$4,341 decrease.¹¹

II. Notice and Responsive Pleadings

6. Notice of Dynegy Oakland's October 30 Filing was published in the *Federal Register*, 80 Fed. Reg. 68,529 (2015), with interventions and protests due on or before November 20, 2015. As explained above, CAISO and PG&E filed timely motions to intervene and a joint protest.

⁸ December 3 Deferral at 2.

⁹ Dynegy Oakland states that it has neither changed the revisions it proposed to Schedules A, D, and J of the RMR Agreement, nor the January 1, 2016 effective date requested in its October 30 Filing. March 14 Filing at 2, n.1.

¹⁰ On March 14, 2016, Dynegy Oakland also filed a motion for authorization to implement settlement rates on an interim basis in Docket No. ER16-207-003. On March 21, 2016, the acting chief administrative law judge denied Dynegy Oakland's motion, finding that granting the motion would result in higher interim settlement rates, an action that goes beyond the judge's delegated authority. *See Dynegy Oakland, LLC*, 154 FERC ¶ 63,023 (2016).

¹¹ *Id.* at 3.

7. Notice of Dynegy Oakland's March 14 Filing was published in the *Federal Register*, 81 Fed. Reg. 15,297 (2016), with interventions and protests due on or before April 4, 2016. None were filed.

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Commission Determination

9. We accept Dynegy Oakland's proposed revisions to Schedules A, B, D and J of the RMR Agreement, as modified by its March 14 Filing, effective January 1, 2016, as requested. Dynegy Oakland states in its March 14 Filing that the issues raised by CAISO and PG&E in response to its October 30 Filing have been resolved in a manner that is agreed to by the parties. Notably, by deferring Commission action on the October 30 Filing, Dynegy Oakland, CAISO, and PG&E were able to reach a settlement by negotiating a rate that is lower than that originally filed and will allow Dynegy Oakland to recover the costs associated with providing service under the RMR Agreement and is acceptable to all parties.¹²

The Commission orders:

Dynegy Oakland's proposed revisions to the RMR Agreement, as amended on March 14, 2016, is hereby accepted for filing, effective January 1, 2016, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹² The new annual fixed revenue requirement proposed in the March 14 Filing represents a \$136,756, or 4.52 percent, increase over the rate on file for the 2015 contract year, but is lower than the rate Dynegy Oakland proposed in the October 30 Filing.