

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

Mirant Delta, LLC and Mirant Potrero, LLC

Docket No. ER05-32-000

ORDER ACCEPTING PROPOSED REVISIONS TO RELIABILITY MUST-RUN  
AGREEMENTS

(Issued December 10, 2004)

1. In this order, we accept proposed revisions to Reliability Must-Run Agreements (RMR Agreements) between Mirant Delta, LLC and Mirant Potrero, LLC (collectively, Mirant Entities)<sup>1</sup> and the California Independent System Operator Corporation (CAISO) for the Potrero Power Plant, the Pittsburg Power Plant and the Contra Costa Power Plant, effective October 1, 2004, October 15, 2004 and October 19, 2004, respectively. This order benefits the public because it improves market efficiency and removes uncertainty regarding the CAISO's Master File ramp rates for RMR generating units.

**Background**

2. RMR Agreements provide the rates, terms and conditions by which the Mirant Entities and other power plant owners in California provide RMR service to the CAISO by dispatching designated units at certain power plants at the CAISO's direction. Among other things, the RMR Agreements specify the specific ramp rates used when issuing dispatch instruction under the RMR Agreements.

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<sup>1</sup> Mirant Delta, LLC owns RMR Units 4, 5 and 7 at the Contra Costa Power Plant and RMR Units 5-7 at the Pittsburg Power Plant. Mirant Potrero, LLC owns RMR Units 3-6 at the Potrero Power Plant.

3. Under the RMR Agreements, certain generating units are allowed to participate in the California energy market when not called upon by the CAISO for reliability purposes. Prior to October 1, 2004, such units were permitted to have different ramp rates for RMR dispatch and market dispatch. As a result, the ramp rates contained in the RMR Agreements for these units could have differed from their ramp rates contained in the CAISO's Master File which were used for market purposes.

4. Pursuant to Amendment No. 54 of the CAISO Open Access Transmission Tariff, as part of Phase IB of the CAISO's Market Redesign and Technology Upgrade, as of October 1, 2004, these RMR units must use a single ramp rate whether dispatched for RMR or market purposes.<sup>2</sup> To reflect this change, the CAISO was supposed to set the CAISO's Master File ramp rates to be equal to the ramp rates in Schedule A of the RMR Agreements.<sup>3</sup> Prior to changing the CAISO's Master File ramp rates, the CAISO was supposed to provide all RMR owners the opportunity to modify Schedule A of their RMR Agreements to reflect the same ramp rates as those in the CAISO's Master File. According to Amendment No. 54, if an RMR generating unit owner declined to make this modification, then the CAISO would update the Master File ramp rates so that the unit would be dispatched for RMR *and* market purposes according to the applicable RMR Agreement ramp rates in effect prior to October 1, 2004.<sup>4</sup>

5. The CAISO overlooked its obligation to change, as of October 1, 2004, the Master File rates for RMR owners who did not elect to amend Schedule A of their RMR Agreements to indicate that the CAISO's Master ramp rates should be used. As a result, all CAISO non-RMR dispatches between October 1, 2004 and October 12, 2004 were based on the CAISO's existing Master File ramp rates and not the RMR Agreement ramp rates.

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<sup>2</sup> See *California Indep. Sys. Operator Corp.*, 105 FERC ¶ 61,091 at P 20 and 23 (2003), *order on reh'g*, 108 FERC ¶ 61,142 at P 13 (2004).

<sup>3</sup> See *id.*

<sup>4</sup> *Id.*

6. On October 8, 2004, via conference call, the CAISO notified RMR owners of this error and gave the RMR owners until October 12, 2004 to make a filing with the Commission to revise their RMR Agreements.<sup>5</sup>

7. In response, on October 12, 2004, pursuant to section 205 of the Federal Power Act,<sup>6</sup> the Mirant Entities filed proposed revisions to their RMR Agreements which modify the ramp rates set forth in Schedule A of the RMR Agreements.

### **Notice of Filing and Responsive Pleadings**

8. Notice of the filing was published in the *Federal Register*, 69 Fed. Reg. 62,263 (2004), with comments, protests and interventions due on or before November 2, 2004. On November 2, 2004, as amended on November 15 and 16, 2004, the CAISO filed a timely motion to intervene and protest. Pacific Gas and Electric Company filed a timely motion to intervene. On November 23, 2004, the Mirant Entities filed an answer and revised tariff sheets.

### **Discussion**

#### **A. Procedural Matters**

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the Mirant Entities' answer because it has provided information that assisted us in our decision-making process.

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<sup>5</sup> On November 15, 2004, the CAISO issued a market notice stating that the CAISO proposed to use the Master File ramp rates for all market and RMR dispatches during the relevant period as follows: "CAISO proposes to settle transactions between October 1, 2004 and the date that the Schedule A Ramp Rate values matched the values in the CAISO's Master File using the effective Ramp Rates in the CAISO's Master File, not the values in Schedule A of the applicable RMR Agreement."

<sup>6</sup> 16 U.S.C. § 824d (2000).

**B. Filing**

11. Pursuant to Amendment No. 54 and the CAISO's instructions, the Mirant Entities submit the instant filing to amend Schedule A to their respective RMR Agreements to indicate that the CAISO's market ramp rates should be used in the CAISO's dispatch instructions. Because of the late notice and short timeframe in which to make the filing, the Mirant Entities request that the Commission waive the 60-day prior notice requirement to permit the revised tariff sheets to become effective on October 1, 2004.

12. The CAISO states that it had been willing to consider an October 1, 2004 effective date based upon the assumption that the RMR owner would be adopting the existing CAISO Master File ramp rates (*i.e.*, that the amended RMR Schedule A ramp rates would be exactly identical to the ramp rates contained in the CAISO's Master File from October 1 through October 12, 2004).

13. The CAISO states that, since the ramp rates proposed in the amended Schedule A for the Potrero Power Plant RMR Agreement (Potrero RMR Amendment) do match the ramp rates contained in the CAISO's Master File, it can accommodate an October 1, 2004 effective date for that amendment. The CAISO thus supports waiver of the 60-day prior notice requirement for the Potrero RMR Amendment.

14. However, the CAISO states that the ramp rates proposed in the amended Schedule A for the Contra Costa and Pittsburg RMR Agreements (Contra Costa RMR Amendment and Pittsburg RMR Amendment) do not match the ramp rates contained in the CAISO's Master File from October 1 to October 18, 2004 for Contra Costa Unit 7 and from October 1 to October 14, 2004 for Pittsburg Unit 7. Therefore, the CAISO requests that the Commission reject the proposed October 1, 2004 effective date for these amendments and instead approve an effective date of October 15, 2004 for the Pittsburg RMR Amendment and an effective date of October 19, 2004 for the Contra Costa RMR Amendment.

15. In their answer, the Mirant Entities state that they do not object to the CAISO's proposed effective dates and have submitted substitute tariff sheets for the Pittsburg and Contra Costa RMR Amendments to reflect the CAISO's proposed effective dates.

16. We find that the amended RMR Agreements, filed pursuant to Amendment No. 54 and the CAISO's direction, are just and reasonable. Because we find that the Mirant Entities have demonstrated good cause for waiver of our prior notice requirement,<sup>7</sup> we

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<sup>7</sup> See, e.g., *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

will allow the Potrero RMR Agreement to become effective October 1, 2004. However, based upon the explanation provided by the CAISO of the difficulty in providing an effective date of October 1, 2004 for the Pittsburg and Contra Costa RMR Amendments, we will allow the Pittsburg RMR Amendment to become effective on October 15, 2004 and the Contra Costa RMR Amendment to become effective on October 19, 2004.

The Commission orders:

We hereby accept the proposed revisions to Reliability Must-Run Agreements for the Potrero Power Plant, the Pittsburg Power Plant and the Contra Costa Power Plant, effective October 1, 2004, October 15, 2004 and October 19, 2004, respectively, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.