

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

El Segundo Power, LLC

Docket No. ER05-617-000

ORDER ACCEPTING AND SUSPENDING AMENDMENT TO PROPOSED
AGREEMENT

(Issued April 15, 2005)

1. In this order, we accept for filing an amendment to a proposed Reliability Must-Run Service Agreement (RMR Agreement) between El Segundo Power, LLC (El Segundo) and the California Independent System Operator Corporation (CAISO)¹ to specify a Condition 1² Fixed Option Payment Factor for the remainder of contract year 2005, suspend it for a nominal period, make it effective May 1, 2005, as requested, subject to refund and subject to the outcome of the proceeding in Docket No. ER05-363-000. This order benefits customers by permitting the continued operation of RMR units to meet local reliability needs or manage intra-zonal congestion.

¹ On December 21, 2004, in Docket No. ER05-363-000, El Segundo filed the proposed RMR Agreement as Rate Schedule FERC No. 2.

² Under Condition 1, the owner of the RMR unit is paid a certain percentage of its annual fixed costs. In addition, the owner retains all revenues earned in the competitive markets for energy and ancillary services. However, if the unit is needed to run for reliability and it is not scheduled in the market, the unit must be a price taker in the CAISO imbalance market.

Background

2. On December 21, 2004, in Docket No. ER05-363-000, El Segundo filed, pursuant to section 205 of the Federal Power Act,³ its proposed RMR Agreement with the CAISO for El Segundo Units 3 and 4 for 2005 and a letter agreement dated December 20, 2004 between El Segundo and the CAISO (Letter Agreement) setting forth additional terms and conditions affecting the RMR Agreement.

3. In an order issued on February 11, 2005, the Commission accepted for filing the proposed RMR Agreement and the Letter Agreement, suspended them for a nominal period, made them effective January 1, 2005, as requested, subject to refund, and set them for hearing and settlement judge procedures.

4. El Segundo elected to operate initially under Condition 2⁴ for 2005; therefore, under the terms and conditions of the proposed RMR Agreement, El Segundo elected to collect rates under Condition 2. The Letter Agreement provides certain consents and waivers by the CAISO for El Segundo to change from Condition 2 to Condition 1 if El Segundo entered into a bilateral agreement with Southern California Edison Company (SoCal Edison) during the 2005 RMR contract year.

5. On January 27, 2005, Dynegy Power Marketing, Inc., as agent for El Segundo, and SoCal Edison entered into a bilateral agreement for deliveries from May 1, 2005 to December 31, 2005, thus triggering the condition in the Letter Agreement authorizing an intra-year change from Condition 2 to Condition 1 and requiring El Segundo to specify a Condition 1 Fixed Option Payment Factor for the remainder of contract year 2005.

6. Consequently, on February 18, 2005, in the instant proceeding, El Segundo filed an amendment to its proposed RMR Agreement to specify a Condition 1 Fixed Option Payment Factor for the remainder of contract year 2005, requesting that the Commission act upon its filing by April 15, 2005.

³ 16 U.S.C. § 824d (2000).

⁴ Under Condition 2, the CAISO pays 100 percent of the unit's fixed costs (not including any acquisition adjustment which constituted a premium paid over the book value at the time of purchase), and the owner is not allowed to use the unit's capacity in the competitive markets for the owner's benefit. When the CAISO dispatches the unit for reliability purposes, the owner must bid all capacity at prices determined by formulas in the contract, and resulting market revenues are credited back to reduce the costs under the rate formula.

Notice of Filing and Pleadings

7. Notice of El Segundo's amendment to the proposed RMR Agreement was published in the *Federal Register*, 70 Fed. Reg. 10,393 (2005), with protests and interventions due on or before March 11, 2005. The California Public Utilities Commission (California Commission) filed a notice of intervention. The CAISO filed a timely motion to intervene and motion to consolidate.⁵ SoCal Edison filed a timely motion to intervene, a motion to consolidate and comments.

8. The CAISO supports El Segundo's request that the Commission accept the instant filing by April 15, 2005. SoCal Edison does not object to the proposed Fixed Option Payment Factor and supports El Segundo's request that the Commission act upon the filing no later than April 15, 2005. However, SoCal Edison indicates that it has objected to⁶ and continues to object to various aspects of El Segundo's filing in Docket No. ER05-363-000 and, in particular, to the aspects of El Segundo's filing as they are reflected in and incorporated into the filing at issue in this proceeding. Thus, it requests that the Commission consolidate the two filings. The CAISO requests consolidation also.

Discussion

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

10. The filing at issue here is an amendment to a proposed RMR Agreement that was previously set for hearing and settlement judge procedures in Docket No. ER05-363-000. Because that proceeding is currently ongoing, we will accept El Segundo's amendment to its proposed RMR Agreement, suspend it for a nominal period, make it effective May 1, 2005, as requested, subject to refund and subject to the outcome of the proceeding in Docket No. ER05-363-000.⁷

⁵ The California Commission supports the CAISO's motion to consolidate.

⁶ In Docket No. ER05-363-000, SoCal Edison filed a joint protest with the CAISO, the California Commission and the California Electricity Oversight Board.

⁷ Because there are no new issues in this proceeding that require hearing procedures, we will not consolidate the two cases, but we will make the filing in the proceeding at issue here subject to the outcome of the proceeding in Docket No. ER05-363-000.

The Commission orders:

El Segundo's amendment to its proposed RMR Agreement is hereby accepted for filing, suspended for a nominal period, to become effective May 1, 2005, subject to refund and subject to the outcome of the proceeding in Docket No. ER05-363-000, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.