

Docket No.	Date received	Presenter or requester
1. Project Nos. 2539-000 and 12522-000	12-7-05	Kristin LaChappelle.
2. Project Nos. 2539-000 and 12522-000	12-19-05	Sister Joanne St. Hilaire.
Exempt:		
1. CP04-411-000	12-16-05	David L. Scott.
2. CP05-412-000	12-16-05	Herman Der.
3. ER05-1522-000, ER05-1533-000	11-30-05	Hon. Arnold Schwarzenegger.
4. Project No. 2630-004	12-20-05	David Leonhardt.

Magalie R. Salas,
Secretary.

[FR Doc. E5-8160 Filed 12-30-05; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Order on Intent To Revoke Market- Based Rate Authority

Issued December 22, 2005.

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

In the matter of: ER02-2001-004, ER04-0292-000, ER04-0646-000, ER02-0388-000, ER03-0827-000, ER98-4301-000, ER02-1324-000, ER03-0182-000, ER03-0261-000, Electric Quarterly Reports, Bravo Energy Resources, LLC, Core Equities, Inc., HC Power Marketing, Maxim Energy Partners, LLC, Mountainview Power Company, Mt. Carmel Cogen, Inc., Phoenix Energy Associates, L.L.C., USP&G (Pennsylvania), Ltd.

1. Section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000), and 18 CFR part 35 (2005), require, among other things, that all rates, terms and conditions of jurisdictional services be filed with the Commission. In Order No. 2001, which established revised public utility filing requirements for rates, terms and conditions of jurisdictional services, the Commission required public utilities, including power marketers, to file, among other things, Electric Quarterly Reports summarizing the contractual terms and conditions in their agreements for all jurisdictional services (including market-based power sales, cost-based power sales, and transmission service) and transaction information (including rates) for short-term and long-term power sales during the most recent calendar quarter.¹

2. Commission staff review of the Electric Quarterly Report submittals has

revealed that a number of public utilities that previously had been granted authority to sell power at market-based rates have failed to file Electric Quarterly Reports in 2005. Accordingly, this order notifies those public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements.

3. In Order No. 2001, the Commission stated that,

[i]f a public utility fails to file a[n] Electric Quarterly Report (without an appropriate request for extension), or fails to report an agreement in a report, that public utility may forfeit its market-based rate authority and may be required to file a new application for market-based rate authority if it wishes to resume making sales at market-based rates.²

4. The Commission further stated that,

[o]nce this rule becomes effective, the requirement to comply with this rule will supersede the conditions in public utilities' market-based rate authorizations, and failure to comply with the requirements of this rule will subject public utilities to the same consequences they would face for not satisfying the conditions in their rate authorizations, including possible revocation of their authority to make wholesale power sales at market-based rates.³

5. Pursuant to these requirements, the Commission has revoked or withdrawn the market-based rate tariffs of several market-based rate sellers that failed to submit their Electric Quarterly Report.⁴

6. Commission staff review of the Electric Quarterly Report submittals has identified a number of public utilities that previously had been granted authority to sell power at market-based rates that have failed to file Electric Quarterly Reports. Commission staff has made a concerted effort to contact the non-filing utilities listed in the caption to remind them of their regulatory obligations. None of the public utilities

² Order No. 2001, at P 222.

³ *Id.* at P 223.

⁴ See Intent to Revoke Market-Based Rate Authority, 107 FERC ¶ 61,310 (2004); Notice of the Revocation of Market-Based Rate Tariffs, *et al.*, 69 Fed. Reg. 57,679 (September 27, 2004); Intent to Withdraw Market-Based Rate Authority, 104 FERC ¶ 61,139 (2003); and Order on Market-Based Rates, 105 FERC ¶ 61,219 (2003).

listed in the caption of this order has met those obligations.⁵

7. Accordingly, this order notifies those public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the issuance of this order.

8. In addition, the above-captioned companies' failure to comply with their Electric Quarterly Report filing requirements provides a basis for the Commission to institute a proceeding under section 206 of the FPA, to determine whether these companies may continue to make wholesale power sales at market-based rates and whether any refunds would be appropriate. In cases where, as here, the Commission institutes a section 206 investigation on its own motion, section 206(b) of the FPA, as recently amended by section 1285 of the Energy Policy Act of 2005,⁶ requires that the Commission establish a refund effective date that is no earlier than the date of publication of notice of its initiation of the investigation, but no later than five months subsequent to that date. Consistent with our general policy,⁷ we will set the refund effective date as the date publication of notice of its initiation of the investigation.

9. In the event that any of the above-captioned market-based rate sellers have

⁵ According to the Commission's records, the companies subject to this order last filed their Electric Quarterly Reports in the quarters and years shown below:

Bravo Energy Resources, LLC, Docket No. ER04-0292-000, 2004, Quarter 3.

Core Equities, Inc., Docket No. ER04-0646-000, 2004, Quarter 3.

HC Power Marketing, Docket No. ER02-0388-000, 2003, Quarter 4.

Maxim Energy Partners, LLC, Docket No. ER03-0827-000, 2004, Quarter 1.

Mountainview Power Company, Docket No. ER98-4301-000, 2002, Quarter 4.

Mt. Carmel Cogen, Inc., Docket No. ER02-1324-000, 2002, Quarter 4.

Phoenix Energy Associates, L.L.C., Docket No. ER03-0182-000, 2004, Quarter 2.

USP&G (Pennsylvania), Ltd., Docket No. ER03-0261-000, 2003, Quarter 4.

⁶ Energy Policy Act of 2005, Public Law No. 109-58, 119 Stat. 594 (2005).

⁷ See, e.g., Seminole Electric Cooperative, Inc. v. Florida Power & Light Co., 65 FERC ¶ 61,413 at 63,139 (1993); Canal Electric Co., 46 FERC ¶ 61,153 at 61,539, *reh'g denied*, 47 FERC ¶ 61,275 (1989).

¹ Revised Public Utility Filing Requirements, Order No. 2001, 67 Fed. Reg. 31043, FERC Stats. & Regs. ¶ 31,127 (April 25, 2002), *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, reconsideration and clarification denied, Order No. 2001-B, 100 FERC ¶ 61,342, order directing filings, Order No. 2001-C, 101 FERC ¶ 61,314 (2002).

already filed their required Electric Quarterly Reports in compliance with the Commission's requirements, its inclusion herein is inadvertent. Any such market-based rate seller is directed, within 15 days of the date of issuance of this order, to identify itself and provide details about its prior filings that establish that it complied with the Commission's Electric Quarterly Report filing requirements.

10. If any of the above-captioned market-based rate sellers does not wish to continue having market-based rate authority and does not foresee entering into any contracts to sell power at market-based rates, it may file a notice of cancellation with the Commission pursuant to section 205 of the FPA to cancel its market-based rate tariff and relieve it of its obligation to submit further Electric Quarterly Reports.

The Commission Orders

(A) Within 15 days of the date of issuance of this order, each public utility listed in the caption of this order shall file all delinquent Electric Quarterly Reports. If a public utility fails to make this filing, the Commission will revoke that public utility's authority to sell power at market-based rates and terminate its electric market-based rate tariff. Upon expiration of the filing deadline in this order, the Secretary shall promptly issue a notice, effective on the date of issuance, listing the public utilities whose tariffs have been revoked.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), the Commission hereby institutes a proceeding to determine whether the above-captioned companies may continue to make wholesale power sales at market-based rates and whether any refunds would be appropriate, as discussed in the body of this order.

(C) The Secretary is hereby directed to publish this order in the **Federal Register**.

By the Commission.

Magalie R. Salas,
Secretary.

[FR Doc. E5-8159 Filed 12-30-05; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL06-4-000]

Informal Staff Advice on Regulatory Requirements; Notice of New Docket Prefix "NL" and Guidelines for Filing Request for No-Action Letter

December 27, 2005.

On November 18, 2005, the Commission issued an *Interpretive Order Regarding No-Action Letter Process*¹ in Docket PL06-4-000. Notice is hereby given that the Commission has established a new docket prefix "NL" to identify issuances related to No-Action Letters.

The prefix will have the format NLFY-NNN-000, where "FY" stands for the fiscal year in which the request for No-Action Letter was received by the Commission and "NNN" is a sequential number.

The Commission is also issuing with this notice guidelines for filing requests for No-Action Letter. The guidelines are available on <http://www.ferc.gov> under the Documents and Filing tab.

Magalie R. Salas,
Secretary.

Filing Guidelines for Requests for No-Action Letter

What to Submit: Submit one original and two paper copies of the request, along with a text-searchable file (or files) on a 3 1/4" diskette or CD-ROM. Each page of the request and any supporting information or documents should include a header or footer stating "Request for No-Action Letter."

Contact Info: Each request must include the name, address, telephone number, and e-mail address of the person to whom the response should be directed.

Where to Submit: Send your request to: Federal Energy Regulatory Commission, Office of the General Counsel, Room 10A-01, ATTN: Request for No-Action Letter, 888 First Street, NE., Washington, DC 20426.

Use express mail or courier services to submit a Request for No-Action Letter to FERC. Regular mail sent through the US Postal Service to the Commission is subject to a 7-10 day delay for scanning. The scanning process also may destroy any diskettes and CD-ROMs included in the submittal.

The Commission determined that, at least initially, a Request for No-Action

¹ Interpretive Order Regarding No-Action Letter Process, 113 FERC ¶ 61,174 (2005).

Letter is non-public material. The Commission's eFiling system is not ready to accept non-public material at this time and therefore, it is not available for the filing of requests for No-Action Letter.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-ORD-2005-0553; FRL-8016-5]

Request for Nominations for a Human Studies Review Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) Office of the Science Advisor (OSA) is soliciting nominations of qualified individuals to serve on a proposed Human Studies Review Board (HSRB). The Agency anticipates establishment of such a board to provide advice and recommendations on issues related to the scientific and ethical review of human subjects research. EPA was directed to establish such a Board pursuant to the 2006 EPA Appropriations Act and included such a Board in a proposed rule for protection of subjects in human research. See: "Department of Interior, Environment, and Related Agencies Appropriations Act, 2006", Public Law No. 109-54 and "Protections for Subjects in Human Research: Proposed Rule," 70 FR 53,838; September 12, 2005.

DATES: Nominations should be submitted to EPA no later than February 2, 2006.

ADDRESSES: Submit your nominations ("comments"), identified by Docket ID No. EPA-HQ-ORD-2005-0553, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- E-mail: ORD.Docket@epa.gov.
- Mail: ORD Docket, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-ORD-2005-0553. Deliveries are only accepted from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information.