

the project. Popular areas for recreational boating include the upper Deschutes River, from Wickiup Dam to the area north of Bend, and the lower Deschutes River from Pelton Dam to the Columbia River. However, there are large sections of the river that are not used by rafters and boaters, including a section of about 32 river miles in the vicinity of the Bend Project, because of low water caused by irrigation projects, dangers rapids and falls, and dams. The staff's navigability report finds no evidence that the Deschutes River, from the project site to the Columbia River, was ever used or suitable for use for the transportation of persons or property in interstate or foreign commerce.

Comments are invited on the staff's navigability report. If the Commission accepts the staff's conclusions regarding navigability, the likely outcome will be a Commission determination that the Bend Hydroelectric Project is not required to be licensed under Section 23(b)(1) of the FPA.

#### Implications for Relicensing

As explained in the staff's draft Environmental Assessment (EA), the Bend Hydroelectric Project has negative economic benefits under any proposed operating scenario. Moreover, because of the high cost of prescribed fishway facilities, the costs of operating the project under a subsequent Commission license greatly exceed the costs of decommissioning the project. The Commission staff is completing its environmental review of the relicensing proposal and alternatives, and expects to issue a final EA in the near future.

In recent correspondence with the Commission staff, PacifiCorp has stated that, if the Commission issues a subsequent license that includes mandatory fishways and other agency recommendations for fish and wildlife, the project will be uneconomic to operate. The license has further stated: "PacifiCorp is not likely to accept a new license proffered by the Commission for the Bend Project if such conditions are included."<sup>5</sup>

If licensing is required under Section 23(b)(1) of the FPA, a hydroelectric license may not continue to operate its project without a license.<sup>6</sup> If licensing is not required, however, a hydroelectric licensee may, following expiration of its original license, either withdraw its relicensing application or reject a new or subsequent license and continue to operate the project without a license under the FPA, subject only to whatever

other federal, state, or local laws may be applicable.<sup>7</sup>

This suggests that the State of Oregon may ultimately be responsible for determining whether the Bend Project should continue to operate or should be decommissioned. Similarly, Oregon may ultimately be responsible for determining what conditions should be required, either for continued operation or for decommissioning. To ensure that state officials and all parties to the relicensing proceeding have advance notice of this possibility and of the preliminary navigability finding on which it is based, interested persons are being given notice of the pending jurisdictional inquiry and an opportunity to comment on the staff's navigability report.

Concurrent with publication of this notice, all persons whose names appear on the official service list for the Bend relicensing proceeding will receive a copy of the navigability report. Additional copies are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, N.E., Washington, D.C. 20426.

Comments on the navigability report should be filed with Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., N.E., Washington, D.C. 20426. Comments should be filed by September 29, 1995, and should reference Project No. 2643-001. For further information, please contact Linda S. Gilbert at (202) 208-5759.

**Lois D. Cashell,**

*Secretary.*

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[Docket No. RP95-393-000]

#### Wyoming Interstate Company, Ltd.; Notice of Tariff Filing

July 24, 1995.

Take notice that on July 20, 1995, Wyoming Interstate Company, Ltd. (WIC) tendered for filing revised tariff sheets, to its FERC Gas Tariff, First Revised Volume No. 1, WIC states that the new tariff sheets are filed to delete Columbia Gas Transmission Corporation (Columbia) as a shipper on WIC. Abandonment authorization was received on February 10, 1995 (70 FERC ¶ 61,157) for the transportation service

<sup>7</sup> See Pennsylvania Electric Co., 56 FERC ¶ 61,435 (1991) (hydroelectric licensee with a voluntary license under Section 4(e) of the FPA need not file a relicensing application and may continue operating without a license following expiration of the original license).

and the Commission approved of a settlement to which Columbia agreed to pay an exit fee. Certain parties filed for rehearing. On June 15, 1995, the Commission approved a settlement in a related Columbia rate proceeding which rendered the rehearing requests moot. (Docket Nos. GP94-2-003, *et al.*, 71 FERC ¶ 61,337).

WIC has filed revision to Sheet Nos. 4, 5A and 23 to delete Columbia. An effective date of July 1, 1995 was requested.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such petitions or protests should be filed on or before July 31, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

**Lois D. Cashell,**

*Secretary.*

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#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-5266-3]

#### Proposed Settlement; Acid Rain Allowance Allocations and Reserves Rule Litigation

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed settlement; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act ("Act"), notice is hereby given of a proposed settlement of *Central Louisiana Electric Company, Inc. v. United States Environmental Protection Agency*, No. 93-1330 (D.C. Cir.).

This case involves a challenge to the final rule, entitled "Acid Rain Allowance Allocations and Reserves," which, *inter alia*, allocated sulfur dioxide emission allowances to Rodemacher Power Station Unit 2. 58 FR 15634, 15669 (March 23, 1993).

For a period of thirty (30) days following the date of publication of this

<sup>5</sup> Letter from S.A. DeSousa, PacifiCorp, to John H. Clements, FERC, dated April 18, 1995.

<sup>6</sup> See 381 U.S. at 98 n. 10.