at the hospital consisted of a dry stand in the main building and approximately 24 satellite vending machines located in other buildings throughout the hospital complex.

The machines were provided by a commercial vending company, and Mr. Smalley restocked some of the machines and received a monthly commission. In June 1993, the hospital undertook an extensive construction and renovation program resulting in the hospital administration requesting additional vending machines from the New York Commission for the Blind and Visually Handicapped, the State licensing agency (SLA). The SLA provided those machines at a new leased building located at Main and Virginia Streets. Previously when additional machines were provided, Mr. Smalley received commissions from the vending machines. However, with respect to the machines at the new leased building, Mr. Smalley did not receive commissions.

In September 1993, the Tower Building, which previously housed vending machines operated by the complainant, was demolished. Complainant alleged that he lost income from those machines.

In October 1993, vending machines were placed in the new leased building at Main and Virginia Streets. At that time, the SLA determined that the income from those machines would accrue directly to the SLA. The SLA determined that the new leased building was geographically separate from Mr. Smalley's vending facility. Consequently, Mr. Smalley would not be receiving the commissions from the machines since, in the opinion of the SLA, the machines in the new leased building were not in direct competition with his operation.

The complainant objected to this new arrangement. He made inquiries to the SLA regarding the matter and received a written explanation from the SLA on February 3, 1994, concerning the placement of the new machines at the leased building and the reassignment of the commissions. Mr. Smalley requested and received an administrative review of the matter. The SLA, in a decision dated April 29, 1994, affirmed its earlier determination. Subsequently, complainant requested and received a State fair hearing on June 30, 1994. By decision rendered August 4, 1994, the New York Department of Social Services upheld the Commission for the Blind and Visually Handicapped decision concerning the allocation of the vending machine income. Mr. Smalley requested the Secretary of Education to convene a Federal arbitration panel to hear this grievance. An arbitration hearing was held on August 13, 1996.

Arbitration Panel Decision

The issue heard by the arbitration panel as stipulated by the parties was as follows: Whether the determination of the New York State Department of Social Services confirming the action of the Commission for the Blind and Visually Handicapped with respect to the allocation of vending machine income at leased property on Main and Virginia Streets was arbitrary, capricious, or unlawful; and if so, what should the remedy be?

The majority of the panel ruled that the scope of Chester Smalley's vending operation on the Roswell Park property was defined in the license granted to him by the SLA in 1986. The complainant's vending facility at that time included the newsstand and vending machines in five ''free standing'' buildings. The panel noted that these properties continue to be within the scope of Mr. Smalley's facility and will also continue when the construction project has been completed and personnel returned from the leased property at Main and Virginia Streets to the Roswell Park complex.

The panel further ruled that the SLA erred in its interpretation of Federal regulations in 34 CFR 395.1(f) and (h) and 395.32 regarding the definition of ''individual location, installation or facility'' and the definition of ''direct competition.'' Specifically, the panel ruled that the SLA's interpretation of these definitions to determine that the leased space at Main and Virginia Streets was a separate individual location or facility and that the commissions from the vending machines should accrue to the SLA was arbitrary.

The panel stated that under the Federal regulations, in order for the revenues from the vending machines at the leased building to accrue to the SLA, the SLA would have to show that there was no blind vendor on that property. The panel ruled that Chester Smalley's original and longstanding license included the outlying buildings on Roswell Park property. Therefore, the panel found that the determination of the New York State Department of Social Services confirming the action of the SLA to allocate the vending machine income from the leased property at Main and Virginia Streets to the SLA was arbitrary.

Based upon the foregoing, the panel reversed the decision of the New York State Department of Social Services.

Additionally, the majority of the panel ordered the SLA to make complainant whole for the vending machine commissions from the leased site during the period of October 1, 1993, to the date of the decision and prospectively. The panel also directed the SLA to pay complainant the cost of bringing this action and attorney's fees. One panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views of the Department of Education.

Dated: April 9, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–9650 Filed 4–14–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP–97–319–000]

ANR Pipeline Company; Notice of Application

April 9, 1997.

Take notice that on March 31, 1997, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP97–319–000 an application pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of a total of approximately 73 miles of mainline looping and additional compression, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR states that the proposed facilities are designed to increase its transmission capacity by up to 750,000 Mcf per day (Mcfd) to provide additional west to east transportation service on its mainline between the Chicago area and western Ohio. ANR further states that the proposed expansion is a companion to, and is filed concurrently with, the new pipeline system being proposed by Independence Pipeline (Independence) in Docket No. CP97–319–000 to provide additional new capacity to the eastern United States (from western Ohio to central Pennsylvania). It is stated that the additional capacity being proposed by ANR will link the Independence project with the recent pipeline expansion proposals designed to bring new pipeline capacity primarily from Canadian producing regions into the Midwest.

Specifically, ANR proposes to construct new pipeline looping facilities

on two parts of its Mainline Area facilities referred to as the ''Michigan Leg South'' and the ''Tieline''. ANR proposes to extend its 42-inch Michigan Leg South loopline by adding: (1) 15.9 miles in a westerly direction from Milepost 820.2 near Joliet, Illinois; (2) 5.5 miles between Joliet, Illinois and its St. John, Indiana compressor station. Further, on its Tieline, ANR proposes to start a new 30-inch loopline which will parallel its existing 22-inch mainline and 24-inch loopline and consist of: (1) 16.0 miles immediately east of its Bridgman, Michigan compressor station and (2) 14.1 immediately west of its Defiance, Ohio compressor station.

In addition to these loopline facilities, ANR states that the proposed project requires: (1) The addition of 15,000 nominal horsepower at its Bridgman compressor station located in Berrien County, Michigan; (2) the modification of station yard piping at its Lagrange compressor station; (3) and the addition of aftercooling at its Defiance compressor station.

ANR requests a predetermination that the cost of these new facilities will be treated on a rolled-in basis in ANR's next rate case.

ANR is conducting an open season from April 2, 1997 through May 30, 1997. ANR intends to make the proposed expansion capacity available on a non-discriminatory basis to any shipper that has executed a transportation service agreement with ANR.

ANR estimates a construction cost of approximately $124.8 million, which it will finance from internally generated funds. ANR plans to commence construction of the project by June 1, 1989, in order to meet a proposed November, 1989 in-service date.

ANR has submitted a draft Request for Proposal (RFP) for the subject project and the companion Independence project in Docket No. CP97–315–000 to hire a third-party contractor to assist in the preparation of an Environmental Impact Statement (EIS).

With the exception of the RFP process, which may proceed, the Commission staff will defer all other processing of ANR's application until ANR advises the Commission of the results of the open season and demonstrates contract commitments in support of the project.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 30, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that approval for the proposed application is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for ANR to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9609 Filed 4–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Temporary Suspension of Minimum Flow and Reservoir Elevation Requirements

April 9, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Temporary Suspension of Minimum Flow and Reservoir Elevation Requirements.

b. Project No: 2466–017.

c. Dated Filed: March 26, 1997.

d. Applicant: Appalachian Power Company.

e. Name of Project: Niagara Hydroelectric Project.

f. Location: Roanoke River, Roanoke County, Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Frank Simms, American Electric Power, One Riverside Plaza, Columbus, OH 43215, (614) 223–2918.

i. FERC Contact: Robert J. Fletcher, (202) 219–1206.

j. Comment Date: April 25, 1997.

k. Description of Proposed Action: Appalachian Power Company, licensee for the Niagara Project, requests approval to lower the reservoir surface elevation down six feet from its normal operating level of 885 feet NGVD and to suspend its 8 cfs minimum flow. The six-foot drawdown and suspension of the 8 cfs minimum flow would be for the duration of the construction period from July 1, 1997 through December 1997. Construction will encompass spillway stability improvements for the rehabilitation of the dam and spillway.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be