

3. Niagara Mohawk Power Corporation v. Penntech Papers, Inc.

Niagara Mohawk argues that the Penntech Papers' purchase of power from Penelec, both of "make-up" power under a provision of Penntech Papers' transmission contract which Penelec, and line losses during transmission pursuant to the same contract, causes Penntech Papers to sell to Niagara Mohawk power from a facility other than a QF.

In Order No. 888, the Commission determined that "energy imbalance service" is one of six ancillary services which with must be provided under an open access transmission tariff.³² The description of "energy imbalance service" and the service provided by Penelec to Penntech Papers to correct inadvertent imbalances indicate that they are the same service. As this is an ancillary service as defined in Order Nos. 888 and 888-A, it does not constitute a sale-for-resale and does not affect Penntech Papers' QF status. Likewise, the purchase of line loss service by Penntech Papers for transmission service provided past the point of interconnection with Penelec does not affect its QF status. We will, therefore, not revoke Penntech Papers' QF status or take other remedial action.

The Commission orders:

(A) The petitions for declaratory order are hereby granted in part and denied in part, as discussed in the body of this order.

(B) The motion of Connecticut Valley filed in Docket Nos. EL94-10-000 and QF86-177-001 to revoke the QF status of Claremont is hereby denied.

(C) The motion of CP&L filed in Docket Nos. EL94-62-000 and QF85-102-005 to revoke the QF status of Stone Container is hereby denied.

(D) The motion of Niagara Mohawk filed in Docket Nos. EL96-1-000 and QF86-722-003 to revoke the QF status of Penntech Papers is hereby denied.

(E) Any facility which by virtue of this order is required to file rates pursuant to section 205 of the FPA shall make such a filing within 60 days of the date of publication of this order in the **Federal Register**, as discussed in the body of this order.

(F) The Secretary is hereby directed to arrange for publication of this order in the **Federal Register** as soon as possible.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-4014 Filed 2-17-98; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES97-7-002]

Consumers Energy Company; Notice of Amendment of Application

February 11, 1998.

Take notice that on January 27, 1998, Consumers Energy Company (Consumers), filed an amendment to its original application in this proceeding. The amendment seeks an increase of \$500 million in Consumers' current authorization to issue long-term securities for refunding and refinancing purposes. Consumers also requests waiver of the Commission's competitive bid/negotiated placement requirements for certain securities to be issued pursuant to the authorization requested in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 358.214). All such motions or protests should be filed on or before February 24, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestant 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.

Linwood A. Watson, Jr.,

Acting Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98-1681-000]

GPU Advanced Resources, Inc., Notice of Filing

February 11, 1998.

Take notice that on January 30, 1998, GPU Advanced Resources, Inc.,

tendered for filing proposed changes in the Code of Conduct to which it has agreed to adhere in connection with its sales of electric energy and capacity at market-based rates.

The proposed changes would, among other things, extend the application of the Code of Conduct to all power marketing affiliates of GPU, Inc., and would narrow certain limitations on transactions and information sharing to transactions and sharing among such power marketing affiliates and their public utility affiliates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 24, 1998. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98-1672-000]

Kentucky Utilities Company, Notice of Filing

February 11, 1998.

Take notice that on January 30, 1998, Kentucky Utilities Company (KU), tendered for filing a series of supplemental contracts between KU and its wholesale requirements customers. KU requests an effective date of January 1, 1998, for these contracts.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 24, 1998. Protests will be considered by the Commission in

³² FERC Stats. & Regs. ¶31,036 at 31, 703-04; see also Order No. 888-A, FERC Stats. & Regs. ¶31,048 at 30,229-34.