

*Comment Date:* January 2, 2002.

### 9. Duke Energy Marshall County, LLC

[Docket No. ER02-530-000]

Take notice that on December 12, 2001, Duke Energy Marshall County, LLC (Duke Marshall) tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to section 205 of the Federal Power Act its proposed FERC Electric Tariff No. 1.

Duke Marshall seeks authority to sell energy and capacity, as well as ancillary services, at market-based rates, together with certain waivers and preapprovals. Duke Marshall also seeks authority to sell, assign, or transfer transmission rights that it may acquire in the course of its marketing activities. Duke Marshall requests pursuant to section 35.11 of the Commission's regulations that the Commission waive the 60-day minimum notice requirement under section 35.3(a) of its regulations and grant an effective date for this application of February 1, 2002, the date on which Duke Marshall anticipates commencing the sale of test energy.

*Comment Date:* January 2, 2002.

### 10. American Transmission Company LLC

[Docket No. ER02-531-000]

Take notice that on December 12, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and the City of Plymouth.

ATCLLC requests an effective date of June 25, 2001.

*Comment Date:* January 2, 2002.

### 11. California Independent System Operator Corporation

[Docket No. ER02-532-000]

Take notice that on December 13, 2001, the California Independent System Operator Corporation tendered for filing an Amendment to Schedule 1 of the Participating Generator Agreement between the ISO and Southern California Edison Company (SoCal Edison) for acceptance by the Commission. The ISO states that this filing has been served on SoCal Edison and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective December 13, 2001.

*Comment Date:* January 3, 2002.

### 12. The Potomac Edison Company

[Docket No. ER02-533-000]

Take notice that on December 13, 2001, Allegheny Energy Service

Corporation on behalf of The Potomac Edison Company (Potomac Edison), submitted a Notice of Cancellation of Service Agreement No. 22 (including its Amendments and Supplements) with Old Dominion Electric Cooperative, a customer under Potomac Edison's Rate Schedule designated as FERC Electric Tariff, Fourth Revised Volume No. 2.

Potomac Edison has requested a waiver of notice to allow the cancellation to be effective January 1, 2002.

*Comment Date:* January 3, 2002.

### Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 01-31466 Filed 12-20-01; 8:45 am]

**BILLING CODE 6717-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[AD-FRL-7121-9]

### Notice of Deficiency for Clean Air Act Operating Permit Program in the District of Columbia

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

**ACTION:** Notice of deficiency.

**SUMMARY:** Pursuant to its authority under the Clean Air Act, EPA is publishing this Notice of Deficiency (NOD) for the District of Columbia's

Clean Air Act title V operating permit program. The NOD is based upon EPA's finding that the District of Columbia's requirements for public notification do not comply with the requirements of the Clean Air Act and its implementing regulations. Publication of this Notice is a prerequisite for withdrawal of the District of Columbia's title V program approval, but EPA is not withdrawing this program through this action.

**EFFECTIVE DATE:** December 13, 2001.

Because this NOD is an adjudication and not a final rule, the Administrative Procedure Act's 30 day deferral of the effective date of a rule does not apply.

### FOR FURTHER INFORMATION CONTACT:

Paresh R. Pandya, U.S. Environmental Protection Agency Region III (3AP11), 1650 Arch Street, Philadelphia, PA 19103 at (215) 814-2167, or by e-mail at [pandya.perry@epa.gov](mailto:pandya.perry@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). Sierra Club and the New York Public Interest Research Group challenged the action. In settling the litigation, EPA agreed to publish a notice in the **Federal Register**, so that the public would have the opportunity to identify and bring to EPA's attention alleged deficiencies in title V programs. The EPA published that notice on December 11, 2000 (65 FR 77376).

As stated in the **Federal Register** notice, EPA agreed to respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA agreed to respond by April 1, 2002 to timely comments on fully approved programs. The EPA is publishing a NOD if the Agency determines that a deficiency exists, and is notifying the commenter in writing to explain the reasons for not making a finding of deficiency on other issues. The EPA received one timely comment letter pertaining to the District of Columbia's title V program. In reviewing the commenter's concerns, EPA agrees that the commenter has identified a deficiency in the District of Columbia's title V operating permit program relating to the District of Columbia's public notification requirements. The EPA is addressing that deficiency in this notice. In addition, the commenter raised other issues that EPA has determined are not deficiencies. The EPA is responding to the commenter in writing, explaining the basis for EPA's decision.

Under EPA's permitting regulations, citizens may, at any time, petition EPA regarding alleged deficiencies in state title V operating permit programs. In addition, EPA may on its own identify deficiencies. If, in the future, EPA agrees with a new citizen petition or otherwise identifies deficiencies, EPA may issue a new NOD.

## II. Description of Action

The EPA is publishing this NOD to notify the District of Columbia and the public that EPA has found a deficiency in the District of Columbia's title V operating permit program. This document is being published to satisfy section 502(i) of the Clean Air Act and 40 CFR 70.10(b)(1), which provides that EPA shall publish in the **Federal Register** a notice of any determination that a State's title V permitting program no longer complies with the requirements of 40 CFR part 70 and the Clean Air Act. The deficiency that is the subject of this document relates to the District of Columbia's regulatory authority to provide adequate public notification of permit actions, pursuant to 40 CFR part 70.

The EPA's regulations at 40 CFR 70.7(h) and 70.7(d)(3)(i) provide that public notice shall be provided for all permit proceedings, except those qualifying as administrative permit amendments or minor permit modifications. Such public notification shall be provided by a number of means, including "by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice; to persons on a mailing list developed by the permitting authority, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public." See, 40 CFR 70.7(h)(1). EPA's regulations at 40 CFR 70.4(b)(16) require that State part 70 program submittals contain provisions requiring the permitting authority to implement the requirements of 40 CFR 70.7. The District of Columbia's operating permit program regulations at 20 DCMR 303.10 require that public notice of draft initial permits, significant modifications and permit renewals be published in the *District of Columbia Register* and that copies of such notice be sent to the applicant, to the representatives of affected states, and to persons on a mailing list developed by the Mayor, including those who request in writing to be on the list.

However, the regulations do not expressly require that "other means" be employed if necessary to assure

adequate public notice. Because the District of Columbia's operating permit program regulations do not require the District to provide public notice by other means if necessary to assure adequate notice to the affected public, the District of Columbia's operating permit program does not fully comply with the requirements of the Clean Air Act and 40 CFR part 70.

Title V provides for the approval of State programs for the issuance of operating permits that incorporate the applicable requirements of the Clean Air Act. To receive title V program approval, a State permitting authority must submit a program to EPA that meets certain minimum criteria, and EPA must disapprove a program that fails, or withdraw an approved program that subsequently fails, to meet these criteria. These criteria include requirements for proper public participation procedures (40 CFR 70.4(b)(16)). See 40 CFR 70.7(h).

The EPA's title V implementing regulations at 40 CFR 70.4 and 70.10(b) and (c) provide that EPA may withdraw a part 70 program approval, in whole or in part, whenever the approved program no longer complies with the requirements of part 70 and the permitting authority fails to take corrective action. A list of potential bases for program withdrawal is provided at 40 CFR 70.10(c)(1)(i), and includes the case where the permitting authority's legal authority does not meet the requirements of 40 CFR part 70.

The procedures for program withdrawal are set forth at 40 CFR 70.10(b). The procedures require as a prerequisite to withdrawal that the EPA Administrator notify the permitting authority of any finding of deficiency by publishing a notice in the **Federal Register**. This document satisfies this requirement and constitutes a finding of deficiency. According to 40 CFR 70.10(b)(2), if the District of Columbia has not taken "significant action to assure adequate administration and enforcement of the program" within 90 days after issuance of this notice of deficiency, EPA may withdraw the state program, apply any of the sanctions specified in section 179(b) of the Act, and/or promulgate, administer, and enforce a federal title V program. As provided by 40 CFR 70.10(b)(3), if the state has not corrected the deficiency within 18 months after the date of the finding of deficiency and signature of the NOD, EPA would be required to apply the sanctions under section 179(b) of the Act, in accordance with section 179(a) of the Act. In addition, 40 CFR 70.10(b)(4) provides that, if the state has not corrected the deficiency within 18

months after the date of the finding of deficiency, EPA will promulgate, administer, and enforce a whole or partial program within 2 years of the date of the finding. This document constitutes a finding of deficiency.

This document is not a proposal to withdraw the District of Columbia's title V program. Consistent with 40 CFR 70.10(b)(2), EPA will wait at least 90 days to determine whether the state has taken significant action to correct the deficiency.

## III. EPA Responses to Citizen Comments

EPA is responding in writing to all timely comments that citizens submitted pursuant to the settlement agreement. For all comments not resulting in an NOD, EPA is responding directly to the commenter, explaining the reasons why EPA did not find that an NOD was warranted. The EPA will publish a notice of availability in the **Federal Register** notifying the public that EPA has responded in writing to the commenter and explaining how the public may obtain a copy of EPA's responses.

## IV. Administrative Requirements

Under section 307(b)(1) of the Act, petitions for judicial review of today's action to issue a notice of deficiency for the District of Columbia's Clean Air Act title V operating permit program may be filed in the United States Court of Appeals for the appropriate circuit within 60 days of December 21, 2001.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: December 13, 2001.

**Judith Katz,**

*Acting Regional Administrator, Region III.*

[FR Doc. 01-31499 Filed 12-20-01; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6624-7]

### Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564-7167 or [www.epa.gov/oeca/ofa](http://www.epa.gov/oeca/ofa).

Weekly receipt of Environmental Impact Statements

Filed December 10, 2001

Through December 14, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010523, Draft EIS, FRC, MI, WI, Bond Falls Project, Issuing a New License for Existing Hydroelectric License, (FERC No. 1864-005)