

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Project No. 7387-019]

**Erie Boulevard Hydropower, L.P.; Notice of Intent To Prepare an Environmental Assessment, Notice of Paper Scoping and Soliciting Scoping Comments, and Notice of Revised Schedule for Processing Application**

May 27, 2004.

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

a. *Type of Application*: New major license.

b. *Project No.*: 7387-019.

c. *Date Filed*: October 20, 2003.

d. *Applicant*: Erie Boulevard Hydropower, L.P.

e. *Name of Project*: Piercefield Hydroelectric Project.

f. *Location*: On the Raquette River, in St. Lawrence and Franklin Counties, New York. The project does not occupy Federal lands.

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

h. *Applicant Contact*: Mr. Jerry L. Sabattis, P.E., Licensing Coordinator, Erie Boulevard Hydropower, L.P., 225 Greenfield Parkway, Liverpool, New York, 13088, telephone (315) 413-2787, and Mr. Samuel S. Hirschey, P.E., Manager, Licensing, Compliance, and Project Properties, 225 Greenfield Parkway, Liverpool, New York, 13088, telephone (315) 413-2790.

i. *FERC Contact*: Janet Hutzel, [janet.hutzel@ferc.gov](mailto:janet.hutzel@ferc.gov), telephone (202) 502-8675 or Kim Carter, [kim.carter@ferc.gov](mailto:kim.carter@ferc.gov), telephone (202) 502-6486.

j. *Deadline for filing scoping comments*: 60 days from issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of

paper. The Commission strongly encourages electronic filing. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-Filing" link. After logging into the e-Filing system, select "Comment on Filing" from the Filing Type Selection screen and continue with the filing process.

k. This application is not ready for environmental analysis at this time.

l. *Description of Project*: The Piercefield Hydroelectric Project consists of the following existing facilities: (a) A dam comprising of a 495-foot-long concrete retaining wall/dike on the right shoreline, a 620-foot-long concrete and masonry stone retaining wall located along the left shoreline, a 118-foot-long stop log spillway, and a 294-foot-long, 22-foot-high ogee spillway section; (b) a 110-foot-long concrete masonry forebay, having a varying width of 40 feet to 55 feet with an average depth of 17 feet; c) a reservoir having a surface area of 370 acres at normal pool elevation of 1542.0 feet m.s.l.; (d) a powerhouse containing 3 generating units having a total rated capacity of 2,700 kW; (e) 600-V and 2.4-kV generator leads; (f) 600-V/46-kV, 2.5-MVA and the 2.4/46-kV, 2.5-MVA three-phase transformer banks; (g) 3.84-mile, 46-kV transmission line; and (h) appurtenant facilities.

m. A Scoping Document (SD) outlining the subject areas to be addressed in the EA was distributed to the parties on the Commission's mailing list. Copies of the scoping document and application are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field (P-7387), to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659. A copy is also available for inspection and reproduction at the address in paragraph (h) above.

n. You may also register online at <http://www.ferc.gov/esubscribenow.htm> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. *Scoping Process*: Scoping is intended to advise all parties regarding the proposed scope of the EA and to seek additional information pertinent to this analysis. The Commission intends to prepare one Environmental Assessment (EA) on the project in accordance with the National

Environmental Policy Act (NEPA). The EA will consider both site-specific and cumulative environmental effects and reasonable alternatives to the proposed action. Should substantive comments requiring re-analysis be received on the NEPA document, we would consider preparing a final NEPA document.

At this time, the Commission staff does not anticipate holding formal public or agency scoping meetings near the project site. Instead, staff will conduct paper scoping.

As part of scoping the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from participants all available information, especially quantifiable data, on the resources at issue; (3) encourage comments from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Consequently, interested entities are requested to file with the Commission any data and information concerning environmental resources and land uses in the project area and the project's impacts to the aforementioned.

**Magalie R. Salas,**

*Secretary.*

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**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. AD04-8-000]

**Electric Creditworthiness Standards; Notice of Technical Conference and Request for Written Comments on Credit-Related Issues for Electric Transmission Providers, Independent System Operators, and Regional Transmission Organizations**

May 28, 2004.

The Federal Energy Regulatory Commission (Commission) will hold a technical conference to consider, among other things, whether the Commission should institute a generic rulemaking to consider credit-related issues for service provided by jurisdictional Transmission Providers,<sup>1</sup> Independent System

<sup>1</sup> For the purposes of this notice, a Transmission Provider is defined as an entity that provides electric transmission service that is neither an ISO nor an RTO.

Operators (ISO), and Regional Transmission Organizations (RTO). The conference will take place on July 13, 2004, at 9:30 a.m. (e.s.t.) in the Commission Meeting Room at the Commission's headquarters, 888 First Street, NE., Washington, DC. The conference will be conducted by the Commission's staff but may be attended by members of the Commission. In preparation for the technical conference, the Commission invites all interested parties to submit written comments, addressing the subjects and questions discussed below, on or before June 25, 2004.

## Background

While credit policies of regulated utilities have always been a component of the Commission's regulatory agenda, changes in the industry (especially changes in the types of participants in the market) have caused credit-related issues to become increasingly significant. In particular, due to market conditions and price volatility experienced recently within the industry, many participants in competitive energy markets have been subject to downgrades (often below investment grade levels) by credit rating agencies. In fact, some of these market participants have been forced to seek bankruptcy protection from creditors. As a result, credit downgrades have raised the level of concern regarding credit-related risks to Transmission Providers and ISOs/RTOs.<sup>2</sup> At the same time, certain market participants have alleged that Transmission Providers and ISOs/RTOs have sought excessive levels of credit support from customers and thereby have effectively foreclosed full market participation by competitive entities. In this regard, higher than necessary credit requirements may exacerbate the financial strain on market participants, reducing the amount of participation and liquidity in the market; lower liquidity, in turn, reduces choices for customers and reduces the transparency and competitiveness of the market.

We note that the Commission issued recently the Gas Credit NOPR<sup>3</sup> to

<sup>2</sup> Although the Commission recognizes that there is some overlap, credit concerns facing Transmission Providers and ISOs/RTOs differ in important ways. The Commission has noted that the differences between ISOs/RTOs and Transmission Providers warrants different approaches to creditworthiness requirements for these entities. See *Duquesne Light Co.*, 103 FERC ¶ 61,227 P 17 (2003). Recognizing these unique differences and the disparate problems that these entities pose, in this notice, the Commission often treats separately credit concerns regarding Transmission Providers and ISOs/RTOs.

<sup>3</sup> See Creditworthiness Standards for Interstate Natural Gas Pipelines, 69 FR 8587 (Feb. 25, 2004),

standardize the creditworthiness provisions in the natural gas industry. In that NOPR, the Commission stated that standardized creditworthiness provisions in the gas industry will promote consistent practices across markets and utilities and provide customers with an objective and transparent creditworthiness evaluation.<sup>4</sup>

With respect to credit-related policy concerns for Transmission Providers in the electric industry, the Commission believes that there may be a lack of transparency in the creditworthiness requirements in the pro forma Open Access Transmission Tariff (OATT);<sup>5</sup> that is, it does not provide specific credit standards and processes but instead only requires that Transmission Providers utilize "reasonable credit review procedures" and that such "review shall be made in accordance with standard commercial practices." As a result, the Commission believes that the credit policies of Transmission Providers may contain differing or unclear credit requirements for customers. Therefore, we seek comment (as discussed further in the questions below) on whether the Commission should consider a similar course for the electric industry as the one it took in relation to the gas industry in the Gas Credit NOPR (*i.e.*, implement standardized and comprehensive tariff-based creditworthiness procedures).

As for credit-related policy issues in the context of ISOs/RTOs, the Commission believes that there are ways to reduce credit/default exposure in those markets.<sup>6</sup> We note that ISOs/RTOs are typically non-profit entities that administer the market on behalf of

FERC Stats. & Regs., Notice of Proposed Regulations ¶ 32,573 (2004) (Gas Credit NOPR).

<sup>4</sup> *Id.*

<sup>5</sup> Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 Fed. Reg. 12,274 (March 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part, remanded in part on other grounds sub nom. Transmission Access Policy Study Group, et al. v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

<sup>6</sup> For example, the Commission recently approved a New England Power Pool (NEPOOL) filing that revises its existing financial assurance and billing policies to implement a weekly billing and payment system for charges in NEPOOL's hourly markets, which by significantly decreasing the billing and settlement period reduces the amount of collateral required from market participants and the exposure of NEPOOL to a default by market participants. See New England Power Pool, Docket No. ER04-697-000.

market participants. As such, in ISO/RTO markets credit is collectively extended by market participants to each individual market participant. Therefore, if one market participant defaults, it falls upon the remaining participants to make up the shortfall (*i.e.*, the default risk is mutualized). Although we recognize that some ISO/RTO markets use instruments such as insurance to reduce this risk, such instruments are expensive and the ultimate responsibility still lies with market participants. Accordingly, the Commission seeks comment on (as discussed further in the questions below) ways to reduce credit exposure and minimize mutualized default risk in ISO/RTO markets.

Although up to this point the Commission has treated various credit-related issues in this notice as only being applicable to either Transmission Providers or ISOs/RTOs, the Commission believes, as discussed further below, that there may be credit-related solutions that are potentially applicable to both Transmission Providers and ISOs/RTOs.

To address the concerns discussed above, the Commission is holding a technical conference, and information gathered from that conference will be of material use to the Commission in understanding the range of issues regarding credit requirements in the electric industry. In addition, in order to assist the Commission in its preparation for that conference, the Commission invites all interested persons to submit written comments on any of the subjects discussed above, the specific questions posed below, or other issues related to credit requirements in the electric industry.

## Questions for Comment

The Commission seeks comments on the following questions:

A. Questions Regarding Transmission Providers:

1. Should credit requirements for wholesale electric transmission services be standardized?
2. Do the existing OATTs and/or credit policies of Transmission Providers contain either unreasonable or unclear requirements for customers?
3. Does the pro forma OATT provide sufficient transparency with regard to credit requirements? If not, what problems are caused from that lack of transparency? What changes to the pro forma OATT would be appropriate to consider as a remedy to better facilitate access to markets and therefore market participation?
4. Should the Commission establish creditworthiness standards for the

electric industry similar to those that it proposed in the Gas Credit NOPR? What are the relevant differences between the gas and electric industries that need to be taken into account?

5. For the purpose of credit standards, does it matter who the market participant is (*e.g.*, are there different standards for financial institutions as opposed to municipal entities)?

**B. Questions Regarding ISOs/RTOs:**

6. Are credit requirements and costs related to creditworthiness negatively impacting market participation in ISO/RTO markets and liquidity levels?

7. What cost-effective steps can be taken to minimize exposure to risk among market participants (*e.g.*, shortening settlement periods, or evaluating credit on a net obligation basis)?

8. Are there elements of existing market rules that can be improved to reduce unnecessary credit requirements?

9. How can the mutualized default risk in ISOs/RTOs be reduced?

10. How can barriers to entry, if there are any, be minimized, while preserving adequate collateral to protect markets?

11. For the purpose of credit standards, does it matter who the market participant is (*e.g.*, are there different credit standards for investor owned participants with physical assets, financial institutions, and municipal entities)?

12. How should a load serving entity that is the provider of last resort be treated in the event of a default?

13. Is there a need to allow for regional variations among RTOs/ISOs with regard to credit policies? If so, what level of standardization may be achieved?

C. Questions regarding credit-related solutions with potential applicability to Transmission Providers and/or ISO/RTO markets:

14. Can clearing be applied to the electricity industry with respect to Transmission Providers and/or non-ISO/RTO markets, as it has been in other sectors (for instance, equity and fixed income clearing is performed by the Depository Trust Clearing Corporation for trading on the New York Stock Exchange, American Stock Exchange, and NASDAQ)? If so, what type of new or existing entity would provide the clearing services and does it need to be granted a franchise monopoly for any or all of its services?

15. What options are available to either insure or otherwise outsource risks currently self-insured or mutualized by market participants (*e.g.*, insurance, credit default swaps)?

16. What are the benefits and costs of the preceding credit-related solutions (*i.e.*, clearing and insurance) or other such solutions? Are they cost-effective? How would the benefits and costs of these solutions be allocated?

**Public Comment Information**

As discussed, in preparation for the technical conference, the Commission invites interested persons to submit written comments on the matters and issues raised in this notice, including any related matters or alternative proposals that commenters may wish to discuss. All written comments should be submitted on or before June 25, 2004. We are hereby establishing a proceeding, Docket No. AD04-8-000, to provide an opportunity for all interested persons to submit comments, and all future actions with respect to the technical conference will also be taken under that docket.

All comments should include an executive summary; the summary should not exceed two pages and the comments should not exceed 15 pages. In addition, if answering a specific question in paragraph eight of this notice, please identify the number of that question. To conserve time and avoid unnecessary expense, persons with common interests or views are encouraged to submit joint comments. Comments related to this proceeding may be filed in paper format or electronically. However, the Commission strongly encourages electronic filings. Those filing electronically do not need to make a paper filing.

Documents filed electronically via the Internet can be prepared in a variety of formats, including MS Word, Portable Document Format, Real Text Format, or ASCII format, as listed on the Commission's Web site at <http://www.ferc.gov>, under the e-Filing link. The e-Filing link provides instructions for how to Login and complete an electronic filing. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's e-mail address upon receipt of comments.

For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426, during regular business hours. In

addition, all comments may be viewed, printed, or downloaded remotely via the Internet through FERC's home page using the eLibrary link.

**Conference Information**

As noted, upon evaluation of the comments requested herein, the Commission will hold a technical conference open to all interested persons. The technical conference will be held on July 13, 2004 at 9:30 a.m. (e.s.t.) in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC.

There is no charge to attend the conference and no requirement to register in advance for the conference. The conference will be transcribed. Those interested in acquiring the transcript should contact Ace Reporters at 202-347-3700 or 800-336-6646. Transcripts will be placed in the public record ten days after the Commission receives them.

Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, by phone or via satellite. Persons interested in receiving the broadcast or who need information on making arrangements should contact David Reininger or Julia Morelli at Capitol Connection (703-993-3100) as soon as possible or visit the Capitol Connection Web site at <http://www.capitolconnection.org> and click on "FERC."

Interested parties are urged to watch for further notices providing more information on the conference. You may register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new issuances and filings related to this docket. For additional information please contact Eugene Grace, 202-502-8543 or by e-mail at [eugene.grace@ferc.gov](mailto:eugene.grace@ferc.gov).

**Magalie R. Salas,**

*Secretary.*

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**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**[Docket No. PL04-6-000]**

**Solicitation Processes for Public Utilities; Supplemental Notice of Agenda for Technical Conference**

May 28, 2004.

1. The attachment to this supplemental notice provides additional