

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.

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 "e-filing" link. The Commission strongly encourages electronic filing.

s. *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.

t. *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 presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Magalie R. Salas,**  
Secretary.

[FR Doc. E4-3508 Filed 12-6-04; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

December 1, 2004.

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

- a. *Type of Application*: Preliminary Permit.
  - b. *Project No.*: 12533-000.
  - c. *Date Filed*: September 1, 2004.
  - d. *Applicant*: Christopher James Pihl.
  - e. *Name of Project*: May Creek Project.
  - f. *Location*: On the May Creek and Lake Isabel, in Snohomish County, Washington. No federal facilities or land would be used.
  - g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)-825(r).
  - h. *Applicant Contact*: Mr. Christopher James Pihl, 18310NE 136th Street, Woodinville, WA 98072, (206) 369-8277.
  - i. *FERC Contact*: Robert Bell, (202) 502-6062.
  - j. *Deadline for filing comments, protests, and motions to intervene*: 60 days from the 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. Please include the project number (P-12533-000) on any comments, protest, or motions filed.

k. *Description of Project*: The proposed project would consist of: (1) A natural lake having a surface area of 200 acres with a storage capacity of 2,000 acre-feet and a normal water surface elevation of 2,000 feet msl, (2) a proposed intake structure, (3) a proposed 9,078-foot-long, 40-inch-diameter steel pipe, (4) a proposed powerhouse containing one generating unit having an installed capacity of 12 MW, (5) a proposed 5,468-foot-long 69 kV transmission line; and (6) appurtenant facilities. The project would have an annual generation of 3.1 GWh that would be sold to a local utility. The proposed project would operate in a run-of-river mode.

l. *Locations of Applications*: A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington DC 20426, or by calling (202) 502-8371. This filing may

also 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 to access the document. For assistance, call toll-free 1-866-208-3676 or e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). For TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. *Individuals desiring to be included on the Commission's mailing list* should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit

would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. 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.

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t. 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 presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4-3509 Filed 12-6-04; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RM04-7-000]

#### Market Based Rates for Public Utilities; Supplemental Notice of Agenda for Technical Conference

December 1, 2004.

The attachment to this supplemental notice provides additional information concerning the December 7, 2004, technical conference to discuss issues associated with transmission market power and barriers to entry. (See November 12, 2004, Notice of Technical Conference.) The conference will begin at 9:30 a.m. (e.s.t.) and will conclude at approximately 5 p.m. and will be convened in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. Members of the Commission will attend the conference. All interested persons are invited to attend. Microphones will be available to enable those in the audience to participate in the discussion.

The topic of the conference will be issues associated with transmission or vertical market power, and barriers to entry in electric markets, which are two of the four prongs the Commission currently uses to determine whether to grant market-based rate authority. The conference will address whether the Commission's *pro forma* open access transmission tariff adequately mitigates transmission market power, other proposals to identify and mitigate transmission market power, as well as whether and, if so, to what extent there are other barriers to entry that the Commission should consider.

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 the transcripts. Additionally, 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."

For more information about the conference, please contact Kelly Perl at 202-502-6421 or [kelly.perl@ferc.gov](mailto:kelly.perl@ferc.gov).

**Magalie R. Salas,**  
*Secretary.*

#### Technical Conference on Transmission Market Power and Barriers to Entry, December 7, 2004, 9:30 a.m.-5 p.m.

The purpose of this conference will be to discuss the second and third prongs of the Commission's assessment of an applicant's request for market-based rate authority: transmission market power and barriers to entry. Panelists will each be asked to address issues among the following in an overview prepared statement. The panelists' statements will be followed by questions and general discussion:

##### *Transmission Market Power and Transmission Barriers to Entry Questions*

1. How should transmission market power be defined? Should it be defined as merely the ownership of generation and transmission in the same relevant market?
2. Can transmission market power be used to foreclose competition or raise prices? If so, how?
3. How does transmission market power impact customer interests? For example, are prices significantly higher than they would have been without transmission market power? Is access to cheaper sources of supply limited? Is flexibility to respond to changing market conditions impaired?
4. How does transmission market power impact power supplier interests? For example, is power plants' energy production constrained by the exercise or suspected exercise of transmission market power?
5. What challenges do owners of uncommitted capacity face in securing long term power contracts or selling power on a short term basis?
6. How does the existence of long term and evergreen firm transmission contracts affect power supplier entry?
7. How important a factor is transmission congestion in the production, scheduling and consumption of power? To what degree can transmission congestion be attributed to physical transmission constraints and what degree to the exercise of transmission market power? How can the Commission distinguish between these two?
8. How can the Commission differentiate between the exercise of transmission market power from legitimate reliability-driven denials of access?
9. Do instances exist where transmission unavailability has led to the abandonment of plans to either build or expand generating capacity or to contract with a merchant supplier?
10. Does the Commission's *pro forma* open access transmission tariff adequately mitigate transmission market power? If not, specify whether there are ways the tariff could be modified or better enforced to achieve this goal.
11. Is it possible to eliminate or mitigate transmission market power apart from structural remedies? If so, how, and are there ways to do it apart from the OATT?