

The OPOC Agreement

7. The Calpine Entities state that CES and Ontelaunee Power Operating Company, LLC (OPOC) expect to enter into an Energy Management Agreement in September 2005 (OPOC Agreement), pursuant to which CES will provide certain services to OPOC, the owner of a 587 MW electric generation facility located in Reading, Pennsylvania. The Calpine Entities state that the output of the facility will be sold into the markets operated by PJM Interconnection, L.L.C. (PJM). CES states that it will provide the following services at the direction of, and subject to the approval of, OPOC: Power management services (including marketing, bidding, and scheduling), fuel management, and risk management services. CES states that it will have the authority to enter into transactions for the purchase or sale of fuel or power with a term of 31 days or less. In addition, the Calpine Entities state that the authority for CES to execute other types of transactions could be delegated by OPOC from time-to-time by written notice.

8. Finally, the Calpine Entities include in their submittal tariff revisions for those of their affiliates who have not previously filed to revise their market-based rate tariffs to include the reporting requirement for changes in status, as required by Order No. 652.

9. Notice of the Calpine Entities' submittal was published in the **Federal Register**,⁴ with interventions or protests due on or before October 11, 2005. None was filed.

Discussion

10. For the reasons discussed below, we will accept the Calpine Entities' notice of change in status, as it relates to the POA Agreement and the OPOC Agreement. We will not address, at this time, the Calpine Entities' representations as they relate to the IECC Agreement, given the premature nature of any evaluation concerning market conditions in the CAISO market as of the IECC Facility's projected 2008 in-service date.

11. Order No. 652 requires that a seller with market-based rate authority notify the Commission of a change in status that would reflect a departure from the characteristics relied upon by the Commission in granting the seller market-based rate authority. Section 35.27(c)(1) of the Commission's regulations defines a change in status to include but not be limited to "ownership or control of generation or transmission facilities or inputs to

electric power production other than fuel supplies."

12. The Calpine Entities state that under the Energy Management Agreements described herein CES will not exercise control over the generating facilities at issue (*i.e.*, over the IECC Facility, the POA Facility, or the OPOC Facility), as contemplated by Order No. 652.⁵ However, we cannot make this determination here based on the record before us, in the absence of the agreements at issue and/or a more detailed description of the services provided under these agreements and their effect on the Calpine Entities' market power analyses.

13. We clarify, in this regard, that sellers making a change in status filing to report an energy management agreement are required to make an affirmative statement in their filing as to whether the agreement at issue transfers control of any assets and whether the agreement results in any material effect on the conditions that the Commission relied upon for the grant of their market-based rate authority. On some occasions, and at the Commission's discretion, the Commission may request the seller to submit a copy of the agreement and provide supporting documentation.

14. We further clarify that a seller making a change in status filing is required to state whether it has made a filing pursuant to section 203 of the Federal Power Act.⁶ To the extent the seller has made a section 203 filing that it submits is being made out of an abundance of caution and thus has voluntarily consented to the Commission's section 203 jurisdiction, the seller will be required to incorporate this same assumption in its market-based rate change in status filing (*e.g.*, if the seller assumes that it will control a jurisdictional facility in a section 203 filing, it should make that same assumption in its market-based rate change in status filing and, on that basis, inform the Commission as to whether there is any material effect on its market-based rate authority).⁷

15. The Calpine Entities argue that even assuming that CES will control the capacity attributable to its Energy Management Agreements, neither CES nor any of its affiliates would possess generation market power in the relevant markets (*i.e.*, in the CAISO, PJM, or the

⁵ "In short, if an applicant has control over certain capacity such that the applicant can affect the ability of the capacity to reach the relevant market, then the capacity should be attributed to the applicant when performing the generation market power screens." Order No. 652 at P 47.

⁶ 16 U.S.C. 824b (2000).

⁷ Order No. 652 at P 35.

NYISO), or fail to satisfy the Commission's other requirements applicable to their market-based rate authority.⁸

16. We agree that even attributing the capacity associated with the POA Facility and the OPOC Facility to the Calpine Entities would not alter our recent determinations that the Calpine Entities, in these markets (*i.e.*, in the NYISO and PJM), continue to satisfy our requirements applicable to the grant of their market-based rate authority.⁹ However, as noted above, we cannot decide this issue at this time, as it relates to the IECC Facility, which is not scheduled to become operational until 2008. A change in status filing regarding CES' agreement with regard to the IECC Facility should be made by the Calpine Entities no later than 30 days after the IECC Facility becomes operational.

17. Finally, we will accept for filing the Calpine Entities' proposed tariff revisions incorporating the reporting requirement for changes in status, as required by Order No. 652.

The Commission Orders

(A) The Calpine Entities' notice of change in status and proposed tariff revisions are hereby accepted for filing, in part, as discussed in the body of this order.

(B) The Secretary is directed to publish a copy of this order in the **Federal Register**.

By the Commission.

Magalie R. Salas,

Secretary.

[FR Doc. 05-23468 Filed 11-28-05; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice Of Filings #1

November 21, 2005.

Take notice that the Commission received the following electric rate filings

Docket Numbers: ER03-9-004; ER03-9-005; ER98-2157-005; ER98-2157-006 EL05-64-000.

Applicants: Westar Energy, Inc. and Kansas Gas and Electric Company.

Description: Westar Energy, Inc and Kansas Gas and Electric Co submit

⁸ The Calpine Entities rely, in this regard, on their recently submitted triennial review analyses, for each of these three markets.

⁹ See *Creed Energy Center, LLC*, Docket No. ER02-2227-003, (November 2, 2005) (unpublished letter order). See also *CES Marketing VI, LLC et al.*, 111 FERC ¶ 61,261 (2005).

⁴ 70 FR 57,573 (2005).

response to FERC's 10/17/05 Information Request.

Filed Date: 11/15/2005.

Accession Number: 20051117-0014.

Comment Date: 5 p.m. eastern time on Tuesday, December 6, 2005.

Docket Numbers: ER05-1036-002.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: The Midwest Independent Transmission System Operator, Inc submits an errata to its 9/13/05 filing.

Filed Date: 11/14/2005.

Accession Number: 20051116-0185.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER05-1389-001.

Applicants: San Juan Mesa Project, LLC.

Description: San Juan Mesa Wind Project, LLC submits First Revised Sheet No. 1 et al to FERC Electric Tariff, Original Volume No. 1 to be effective 10/7/05 in compliance with FERC's 10/12/05.

Filed Date: 11/14/2005.

Accession Number: 20051116-0184.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER05-1439-001.

Applicants: Allegheny Energy Supply Company, LLC.

Description: Allegheny Energy Supply Co, LLC submits its Full Requirements Service Agreement with West Penn Power Co.

Filed Date: 11/14/2005.

Accession Number: 20051116-0189.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER05-969-002.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits an errata to its 9/13/05 compliance filing of a Large Generator Interconnection Agreement.

Filed Date: 11/14/2005.

Accession Number: 20051116-0193.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER06-200-000.

Applicants: Big Horn Wind Project LLC.

Description: Big Horn Wind Project LLC submits its initial rate schedule, a request for the granting of authorizations and blanket authority and for waiver of certain requirements.

Filed Date: 11/14/2005.

Accession Number: 20051115-0137.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER06-201-000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Co informs FERC of the purchase price of the Mountainview Power Co LLC-owned generation facility.

Filed Date: 11/14/2005

Accession Number: 20051115-0135.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER06-205-000.

Applicants: Alcoa Power Generating Inc.

Description: Alcoa Power Generating, Inc submits revisions to the open access transmission tariff of its Long Sault Division.

Filed Date: 11/14/2005.

Accession Number: 20051116-0106.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER06-206-000.

Applicants: Arizona Public Service Company.

Description: Arizona Public Service Co's notice of cancellation of their FERC Electric Rate Schedule No.170, to be effective 12/31/05.

Filed Date: 11/14/2005.

Accession Number: 20051116-0043.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER06-207-000.

Applicants: Xcel Energy Services, Inc.

Description: Xcel Energy Services, Inc, on behalf of Public Service Company of Colorado submits an Amended & Restated Agreement for Interconnection Service with Fountain Valley Power, LLC.

Filed Date: 11/14/2005.

Accession Number: 20051116-0042.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER06-208-000.

Applicants: Xcel Energy Services, Inc.

Description: Xcel Energy Services Inc on behalf of Public Service Co of Colorado submits an Amended & Restated Agreement for Interconnection Service with Black Hills Colorado, LLC.in reference to Original Agreement No. 164-PSCo.

Filed Date: 11/14/2005.

Accession Number: 20051116-0066.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER06-209-000.

Applicants: Xcel Energy Services, Inc.

Description: Xcel Energy Service, Inc submits on behalf of Public Service Company of Colorado its Amended & Restated Agreement for Interconnection Service with Black Hills Colorado, LLC. in reference to Original Agreement No. 163-PSCo.

Filed Date: 11/14/2005.

Accession Number: 20051116-0035.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER06-210-000.

Applicants: Xcel Energy Services, Inc.

Description: Xcel Energy Service Inc on behalf of Public Service Co of Colorado submits an amended & restated agreement for interconnection service with BIV Generation Co, LLC.

Filed Date: 11/14/2005.

Accession Number: 20051116-0033.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER06-211-000.

Applicants: Rayburn Country Electric Cooperative Inc.

Description: Rayburn Country Electric Coop, Inc notifies FERC that they are no longer a public utility as defined by the Federal Power Act, due to amendments to section 201(f) of the FPA.

Filed Date: 11/14/2005.

Accession Number: 20051116-0041.

Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER06-212-000.

Applicants: Wisconsin Electric Power Company.

Description: Wisconsin Electric Power Co submits proposed amendments to the Power Service Agreement with the City of Crystal Falls, Michigan.

Filed Date: 11/15/2005.

Accession Number: 20051116-0197.

Comment Date: 5 p.m. eastern time on Tuesday, December 6, 2005.

Docket Numbers: ER06-213-000.

Applicants: Southern Company Services, Inc.

Description: Southern Company Services, Inc., as agent for Alabama Power Co, submits notice of cancellation of Original Sheet Nos.1 through 168 of the Amended & Restated Agreement for partial requirements service & complementary service with Alabama Municipal Authority.

Filed Date: 11/15/2005.

Accession Number: 20051116-0183.

Comment Date: 5 p.m. eastern time on Tuesday, December 6, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding,

interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,

Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

November 9, 2005.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER05-554-003.

Applicants: PacifiCorp.

Description: PacifiCorp reports that on 10/14/05 it paid \$26,929 to Warm Springs Power Enterprises in compliance with FERC's 8/25/05 Order.

Filed Date: 11/03/2005.

Accession Number: 20051108-0212.

Comment Date: 5 p.m. eastern time on Friday, November 25 2005.

Docket Numbers: ER06-150-000.

Applicants: PJM Interconnection

L.L.C.

Description: PJM Interconnection LLC submits its Third Revised Rate Schedule No. 24 and Sixth Revised Volume No.

1.

Filed Date: 11/02/2005.

Accession Number: 20051108-0285.

Comment Date: 5 p.m. eastern time on Wednesday, November 23, 2005.

Docket Numbers: ER06-151-000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits revisions to the PJM FERC Electric Tariff, Third Revised Rate Schedule No. 24 & Sixth Revised Volume No. 1.

Filed Date: 11/02/2005.

Accession Number: 20051108-0255.

Comment Date: 5 p.m. eastern time on Wednesday, November 23, 2005.

Docket Numbers: ER06-152-000.

Applicants: Wisconsin Public Service Corporation.

Description: Wisconsin Public Service Corp submits a revised Market-Base Rate Tariff designated as FERC Electric Tariff, Fourth Revised Volume No. 10.

Filed Date: 11/03/2005.

Accession Number: 20051108-0209.

Comment Date: 5 p.m. eastern time on Friday, November 25, 2005.

Docket Numbers: ER06-153-000.

Applicants: American Electric Power Service Corporation.

Description: American Electric Power Service Corp on behalf AEP Texas Central Company submits a restated and amended interconnection agreement dated 11/29/99.

Filed Date: 11/03/2005.

Accession Number: 20051108-0210.

Comment Date: 5 p.m. eastern time on Friday, November 25, 2005.

Docket Numbers: ER06-154-000; ER05-1307-000.

Applicants: Tampa Electric Company; *Description:* Tampa Electric Co submits a Compliance Filing of Second Revised Sheet No. 121 to FERC Electric Tariff, Second Revised Volume No. 4.

Filed Date: 11/03/2005.

Accession Number: 20051108-0211.

Comment Date: 5 p.m. eastern time on Friday, November 25, 2005.

Docket Numbers: ER06-155-000.

Applicants: Walton Electric Membership Corporation.

Description: Walton Electric Membership Corp informs FERC it is no longer a public utility subject to jurisdiction pursuant to section 201(f) of the Federal Power Act and no longer is required to file reports effective 8/8/05.

Filed Date: 11/02/2005.

Accession Number: 20051108-0207.

Comment Date: 5 p.m. eastern time on Wednesday, November 23, 2005.

Any person desiring to intervene or to protest in any of the above proceedings

must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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Magalie R. Salas,

Secretary.

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