

Reservoir, which receives water from Lost Creek, and the Slate Creek and South Fork Feather River diversion tunnels in Butte, Yuba and Plumas counties, California.

*SFWPA's Proposed Action includes:*

(1) Raising Sly Creek Dam approximately 10 feet through the use of mechanically stabilized earth walls constructed from approximately 20,000 cubic yards of fill from an onsite borrow area; (2) modifying the spillway crest structure; (3) replacing the spill gate; and (4) altering roadway approaches to the Sly Creek Dam crest and re-paving the road to improve drainage conditions in the adjacent campground and borrow site.

The EA contains Commission staff's analysis of the potential environmental effects of the Proposed Action and concludes that the Proposed Action, with the implementation of environmental protective measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is available for review at the Commission's Public Reference Room, or it may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number (P-2088) in the docket number field to access the document. Additional information about the project is available from the Commission's Web site using the eLibrary link. For assistance with eLibrary, contact [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676; for TTY, contact (202) 502-8659.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2010-12858 Filed 5-27-10; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. PR10-25-000]

#### Consumers Energy Company; Notice of Baseline Filing

May 21, 2010.

Take notice that on May 17, 2010, Consumers Energy Company (Consumers) submitted a baseline filing of its Statement of Operating Conditions for the interruptible transportation services provided under section 311(a)(2) of the Natural Gas Policy Act of 1978 ("NGPA").

Any person desiring to participate in this rate proceeding must file a motion

to intervene or to protest this filing 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). 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 notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is 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](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 28, 2010.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2010-12861 Filed 5-27-10; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy; Energy Efficiency and Conservation Block Grant Program

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice.

**SUMMARY:** This document advises the public that a class deviation to the Department of Energy (DOE) Financial

Assistance Rules, particularly the regulations that deal with programmatic changes, and DOE policies and procedures on the use of warranted Contracting Officers to administer financial assistance agreements, has been approved for the Energy Efficiency and Conservation Block Grant (EECBG) program. This class deviation gives authority to EECBG Program Managers to approve the following processes for financial assistance agreements made using Recovery Act funding to State, city, county, and Tribal recipients in support of the formula EECBG program: Administer financial assistance awards for approval of programmatic changes under the Changes section of the Financial Assistance Rules; review of subsequent budget submittals for consistency with the requirements of Office of Management and Budget's (OMB) Cost Principles for State, Local and Indian Tribal Governments (questions on allowability, allocability and reasonableness of budgets and individual cost elements will be forwarded to the Contracting Officer for adjudication), remove and/or modify National Environmental Policy Act (NEPA) restrictions, including guidance on NEPA requirements; and amend agreements for administrative activities such as lifting conditions based on approval of Strategies. The class deviation does not apply to non-formula awards.

**DATES:** This class deviation is effective June 14, 2010.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tyler Huebner, U.S. Department of Energy, Office of Weatherization and Intergovernmental Programs, Mailstop EE-2K, 1000 Independence Avenue, SW., Washington, DC 20585-0121. E-mail: [tyler.huebner@ee.doe.gov](mailto:tyler.huebner@ee.doe.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background
- II. Discussion
- III. Determination

#### I. Background

The DOE, Office of Energy Efficiency and Renewable Energy (EERE), has experienced historic growth and unprecedented workload challenges as a result of the passage of the American Recovery and Reinvestment Act of 2009 (Recovery Act). The Recovery Act provides critical funding to be spent in support of the economy, creating jobs and serving the public purpose by advancing the development and adoption of renewable and energy efficiency technology.

The Recovery Act included conditions on the use of its funding for all awards. These conditions included

applying the Davis-Bacon Act to financial assistance and adding Buy American requirements for steel, iron and manufactured goods. In addition, the Recovery Act did not provide for waivers or deviations from any statutory or regulatory requirement normally associated with acquisitions and financial assistance activities. Of particular importance for the EECBG Program, waivers or deviations were not provided from the National Environmental Policy Act (NEPA) or the Office of Management and Budget (OMB) Guidance for Grants and Agreements.

Under the Recovery Act, EERE is charged with spending over \$16 billion dollars across the entire EERE portfolio, including \$2.7 billion for EECBG Program. The EECBG Program, funded for the first time by the Recovery Act, represents a Presidential priority to deploy the cheapest, cleanest, and most reliable energy technologies we have—energy efficiency and conservation—across the country. The EECBG Program, authorized in title V, subtitle E, of the Energy Independence and Security Act of 2007 (EISA), is intended to assist U.S. cities, counties, States, territories, and Indian Tribes to develop, promote, implement, and manage energy efficiency and conservation projects and programs designed to:

- Reduce fossil fuel emissions;
- Reduce the total energy use of the eligible entities; and
- Improve energy efficiency in the transportation, building, and other appropriate sectors.

See EISA section 542(b). Through formula and competitive grants, the EECBG Program empowers local communities to make strategic investments to meet the nation's long-term goals for energy independence and leadership on climate change.

In support of the EECBG Program, EERE and the procurement offices (Procurement) at the Golden Field Office, Oak Ridge Operations Office, and Yucca Mountain Project Office have been charged with managing over 2,200 block grants to cities, counties, States and Tribal governments. In order to obligate funds quickly and expedite the process of developing strategies and budgets, the majority of the grants were awarded on a partially conditioned basis. That is, awards were conditioned upon NEPA approval and included requirements for post-award submission of strategies and budgets. To lift all conditions so that grantees may expend all grant funds, awards must be amended at least once and often multiple times. While this practice of conditioning the awards may reduce the

risk of misuse of Recovery Act funds, it creates a tremendous workload on the program and procurement offices.

Although numerous standard processes have been streamlined and/or waived, including lifting NEPA restrictions via a letter issued by the Contracting Officer (rather than through a grant amendment) and waiving approval of budget changes as authorized by 10 CFR 600.230(c), additional relief is necessary to ensure that the funds are released to the grantees expeditiously in accordance with the intent of the Recovery Act.

## II. Discussion

According to DOE's Financial Assistance Rules, 10 CFR Part 600, and as reflected in the DOE's Guide to Financial Assistance, a warranted Contracting Officer is required to sign all financial assistance awards and amendments including awards to States, cities, counties and Tribes receiving formula funds as part of the EECBG program. For EECBG, this may require as many as 10,000 actions to release conditions fully on the awards and permit use of Recovery Act funds. Given the limited number of Contracting Officers within DOE and particularly within the procurement offices processing EECBG workload, there is a limit to the number of awards that can be made or amended in the near term under the current regulatory requirements and DOE policies.

EERE has examined the financial assistance award and administration process to determine what additional approaches can be used in the short term to support timely processing of the extraordinary workload while maintaining the due diligence and rigor that expenditures of public funds requires. EERE recommended that the DOE Senior Procurement Executive/Director, Office of Procurement and Assistance Management approve a class deviation to allow EECBG Program Managers to have the authority to approve the following processes:

- (1) Administer financial assistance awards for approval of programmatic changes under 10 CFR 600.230(d);
- (2) Review of subsequent budget submittals for consistency with the requirements of OMB Circular A-87. Questions on allowability, allocability and reasonableness of budgets and individual cost elements will be forwarded to the Contracting Officer for adjudication.
- (3) Remove and/or modify NEPA restrictions, including guidance on NEPA requirements; and
- (4) Amend agreements for administrative activities such as lifting

conditions based on approval of Strategies.

In order to ensure that the grant file is complete and there is a record of approvals, the EECBG Program Manager approval must be in writing and the Contracting Officer must be copied on all such approvals.

Each program manager must have filed either a public financial disclosure report (SF 278) or a confidential financial disclosure report (OGE 450), depending upon the individual's position at the Department, and it must be confirmed that the individual does not have any conflicts of interest that have not been remedied. Prior to receiving a delegation as discussed herein, each program manager must have completed two financial assistance classes (Basic Financial Assistance and Cost Principles—see the Acquisition Career Management Program Manual for further information). EECBG must provide a written request to the Head of the Contracting Activity (HCA) for the Golden Field Office identifying the person, demonstrating satisfaction of these qualifications, and stating the need for the delegation. For awards administered by other than the Golden Field Office, that office's cognizant HCA will be asked to concur on the EECBG Program Manager's delegation of authority for awards under that office's purview.

Although there are risks that the funds may be used inappropriately, overall EECBG awards are generally low-risk awards. The awards are to cities, counties, States and Tribes which are generally low risk recipients. Many of the recipients have other Federal awards and have established processes that provide systemic support for proper use of Federal funds. The total dollar amount of each award is established by a formula that limits the DOE's liability for cost overruns or underestimation of costs included in the proposed budget. Risk is further limited as the grantee must first have an approved energy efficiency and conservation strategy pursuant to EISA 545(b) (hereafter, Strategy). Projects must be for an eligible activity under EISA 544 and require DOE approval for work to begin. Each entity expending over \$500,000 in a fiscal year is subject to the Single Audit Act, and DOE has the right to perform other nonduplicative audits on the grants. Together, these measures limit the risk to DOE of misuse of funds.

To limit the risk of misuse of funds associated with the delegation of authority to approve certain post-award processes to EECBG Program Managers, the following actions remain unchanged:

(1) Contracting Officers will review the initial award package (including budget and proposed activities) and issue the initial award obligating the funds.

(2) The annual audit contained in OMB Circular A-133 remains in effect and will serve as additional oversight of expenditures.

(3) A NEPA Compliance Officer (NCO) will determine whether the NEPA requirements have been satisfied for a recipient's project.

The process for approving the actions that occur after a Contracting Officer has made the initial award is the following:

(1) Upon receiving a package from the recipient, the agreement's assigned Federal Technical Project Officer (TPO) determines if the package involves one of the actions listed above (*i.e.*, approval of the Strategy, award modification such as a scope change, or NEPA letter modification).

(2) If the TPO determines the package involves one of the above actions, (s)he completes a technical evaluation (or drafts a letter lifting the NEPA condition), along with a brief risk assessment of the grantee (*see* OWIP Monitoring Plan and the DOE Guide to Financial Assistance), completes a review of the recipient's budget consistent with OMB Circular A-87, and submits the documentation to the EECBG Program Manager.

(3) The cognizant EECBG Program Manager reviews the technical evaluation and risk assessment and either approves via signature, or requests the TPO to:

a. Revise the technical evaluation, and/or gather more information from the grantee;

b. Submit the package to a Specialist in Procurement for a peer-review prior to approval by the EECBG Program Manager or designee; or

c. Submit the package to Procurement for full review and approval by a Contracting Officer, per 10 CFR part 600.

(4) Following approval by the EECBG Program Manager, the TPO will maintain a file with information on the action including a memo explaining the change and any award documents (*e.g.*, budget). The TPO notifies Procurement of the completed action, providing a copy of the approval as noted above.

(5) As a part of the closeout process, a Contracting Officer will incorporate the EECBG Program Manager's approvals into the award so that the final electronic record is complete.

The competitive portion of the EECBG program is not included in this deviation request. The twenty-five awards made under what is now being

called the Retrofit Ramp-Up program will not be following the same processes for full unrestricted use of funds.

This modified financial assistance administration process would provide for due diligence in review of initial and final scopes of the work performed under the EECBG formula, in keeping with the goals and objectives of the Recovery Act while operating in accordance with DOE's Financial Assistance Rules and OMB guidance on financial assistance.

### III. Determination

At the request of the Office of EERE on May 12, 2010, the Senior Procurement Executive of the Department of Energy and as the Acting Director of the Office of Procurement and Assistance Management (OPAM), Patrick M. Ferraro, executed the "Determination and Findings to Deviate from 10 CFR Part 600" which authorizes a class deviation to Department of Energy policies and procedures as described therein. As required by 10 CFR 600.4(d), that Determination is set forth below, and will take effect on June 14, 2010.

Issued in Washington, DC, on May 21, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

### U.S. Department of Energy

#### Office of Energy Efficiency and Renewable Energy

##### *Energy Efficiency Conservation Block Grant Program Determination and Findings To Deviate From 10 CFR Part 600*

In accordance with paragraph 2.8 of the delegation of authority from the Secretary of Energy to the Director, Office of Procurement and Assistance Management (OPAM) as Senior Procurement Executive of the Department of Energy, the Director may:

Enter into, approve, administer, modify, close-out, terminate and take such other actions as may be necessary and appropriate with respect to any financial assistance agreement, sales contract, or similar transaction, whether or not binding DOE to the obligation and expenditure of public funds. Such action shall include the rendering of approvals, determinations, and decisions, except those required by law or regulation to be made by other authority.

*The DOE Financial Assistance Rules, at 10 CFR 600.4(c)(ii), authorize the Director of OPAM to approve or deny requests for a class deviation.*

### Findings

This memorandum presents all findings associated with U.S.

Department of Energy, Office of Energy Efficiency and Renewable Energy (EERE)'s request for a class deviation. EERE has experienced historic growth and unprecedented workload challenges as a result of the passage of the American Recovery and Reinvestment Act of 2009 (Recovery Act). Changes to normal procedures are required to meet the goals and objectives of the Recovery Act.

a. The Contracting Officer is defined in 10 CFR 600.3 as the DOE authorizing official to execute awards on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.

b. Recipients are required by 10 CFR 600.230 to obtain the prior approval of the awarding agency whenever any of the following actions is anticipated:

(1) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).

(2) Need to extend the period of availability of funds.

(3) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.

(4) Under nonconstruction projects, contracting out, subcontracting (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award. This approval requirement is in addition to the approval requirements of § 600.236 but does not apply to the procurement of equipment, supplies, and general support services.

c. The Recovery Act appropriated \$2.7 billion dollars for the Energy Efficiency and Conservation Block Grant (EECBG) program. The EECBG is intended to assist U.S. cities, counties, States, territories, and Indian Tribes, to develop, promote, implement, and manage energy efficiency and conservation projects and programs designed to:

- Reduce fossil fuel emissions;
- Reduce the total energy use of the eligible entities; and
- Improve energy efficiency in the transportation, building, and other appropriate sectors.

d. The EECBG program is carried out through the award of formula grants. The program regulations define the eligible applicants and the formula for the total amount of the awards. The competitive award portion of the EECBG is not included in this deviation.

e. The EECBG program has dramatically increased the workload placed on DOE procurement offices to award and administer the grants executed for the program.

f. Delegation of certain non-monetary administrative actions to DOE program managers will increase the speed of expenditures of Recovery Act funds under the EECBG to speed goals of the Recovery Act.

g. Appropriate controls, oversight and monitoring are available to decrease the risk of misuse of funds by the recipients without the Contracting Officers involvement in approval of programmatic changes and other administrative actions.

#### Determination

Based on the above findings and in accordance with the authority granted to me as the Senior Procurement Executive of the Department of Energy and as the Director of OPAM, I have determined that a class deviation to Department of Energy policies and procedures governing financial assistance is appropriate and necessary to meet the goals and objectives of the Recovery Act while at the same time providing required due diligence and rigor that support DOE's execution of its fiduciary responsibilities.

I have determined the deviation to 10 CFR Part 600, in particular 10 CFR 600.230, and DOE policies and procedures on the use of warranted Contracting Officers to administer financial assistance agreements is in the best interest of the EECBG program and the use of Recovery Act funds. The deviation is approved subject to the above findings and the process outlined in the attached memorandum.

This class deviation applies to financial assistance agreements made using Recovery Act funding to State, city, county or Tribal recipients in support of the EECBG program. It does not apply to non-formula awards.

This class deviation is not effective until fifteen days after a notice is published in the **Federal Register**; see 10 CFR 600.4(d).

**Patrick M. Ferraro,**

*Acting Director, Office of Procurement and Assistance Management.*

[FR Doc. 2010-12886 Filed 5-27-10; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RM01-5-000]

#### Electronic Tariff Filings; Notice of Posting Regarding Filing Procedures for Electronically Filed Tariffs

May 21, 2010.

Take Notice that the attached document "Filing Procedures For Electronically Filed Tariffs, Rate Schedules And Jurisdictional Agreements" has been posted on the eTariff Web site (<http://www.ferc.gov/docs-filing/etariff.asp>) under Commission Orders and Notices at <http://www.ferc.gov/docs-filing/etariff/com-order.asp>.

For further information, please contact Keith Pierce at 202-502-8525 or Andre Goodson at 202-502-8560, or through e-mail to [etariff@ferc.gov](mailto:etariff@ferc.gov).

**Kimberly D. Bose,**  
*Secretary.*

#### Filing Procedures for Electronically Filed Tariffs, Rate Schedules and Jurisdictional Agreements

In Order No. 714,<sup>1</sup> the Commission adopted regulations requiring that, starting April 1, 2010, and for a transition period through September 30, 2010, all tariffs, rate schedules, and jurisdictional agreements, and revisions to such documents, filed with the Commission must be filed electronically according to a format provided in the Implementation Guide.<sup>2</sup> Based on issues that have arisen on some of the baseline tariff filings, and inquiries, this notice describes procedures for making electronic tariff filings.<sup>3</sup> Electronic tariff filings that do not comply with these requirements are subject to rejection.

- Once a Baseline Tariff Filing Has Been Made, All Tariff Filings Must be Made Electronically Pursuant to the Order No. 714 Guidelines.

Once a company makes its baseline tariff filing in compliance with Order No. 714, the company must make all subsequent filings of tariffs, rate schedules, and jurisdictional agreements in the Order No. 714

<sup>1</sup> *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

<sup>2</sup> The data elements and communication protocol are described in the Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300, and 341 Tariff Filing (Implementation Guide), available at <http://www.ferc.gov/docs-filing/etariff/implementation-guide.pdf>.

<sup>3</sup> As indicated in Order No. 714, this phrase is intended to encompass rate schedule and jurisdictional agreement filings as well. Order No. 714, at P 13 n.11.

baseline tariff filing format. As provided in Order No. 714, this requirement is not limited to tariffs or to modifications of the baseline tariff filing, but encompasses all the company's other tariffs, rate schedules, and jurisdictional agreements, and all filings revising, withdrawing, or otherwise affecting such documents or the effective dates of such provisions. For example, natural gas negotiated rate agreements and non-conforming service agreements, electric rate schedules, transmission, power sale, and ancillary service agreements, interconnection agreements, and all other jurisdictional agreements are covered by this requirement. As described below, this requirement also applies to tariff filings related to periods earlier than the baseline filing. Once the Office of the Secretary accepts a company's baseline tariff filing for processing, the company should not make any further tariff related filings on paper or electronically in a format that does not comply with the electronic filing format required by Order No. 714.

- Required Tariff Documents To Be Included With an Electronic Tariff Filing.

As part of an electronic tariff filing, companies must include as tariff records 1) a copy of the proposed tariff provision, and 2) the plain text of the tariff provision. In addition as attachments, companies must include 3) a clean copy of the tariff provision and 4) the marked text of the provision (when required).

- Electronic Tariff Filings for Periods Earlier Than the Baseline Filing.

The electronic tariff software will not accept electronic tariff filings with tariff records that have a proposed effective date earlier than the effective date associated with the tariff identification number for the baseline filing. Companies may have outstanding compliance obligations or rates for prior, locked-in periods that need to be filed with the Commission or may need to propose changes to parts of a company's tariffs that were not part of the baseline tariff filing. Such filings should be made in the following manner:

- The compliance or other provision applicable to the period after the baseline tariff filing has been accepted by the Secretary for processing must be made in the electronic tariff filing format required by Order No. 714.

- Tariff provisions governing periods earlier than the baseline filing must be included either as part of the transmittal letter or as a separate attachment, unless the company and its customers have waived the need to file tariff provisions for the earlier periods.