

filing did not warrant further scrutiny and the consideration of additional evidence.

57. The Commission disagrees with AAI's assertion that the indicative screens are flawed because they focus only on unilateral effects. While the pivotal supplier screen focuses on the ability of a seller to exercise market power unilaterally, as the Commission observed in Order No. 697, the market share screen focuses on both "unilateral market power and the ability of a seller to effect coordinated interaction with other sellers."<sup>115</sup> Additionally, while AAI criticizes the screens on the basis that they do not focus on the ability and incentive to exercise market power, the Commission has previously found and reiterates here that requiring sellers to submit screens that focus on the sellers' potential (i.e., ability) to exercise market power is consistent with the Commission's obligation to set policies that ensure that rates remain just and reasonable.<sup>116</sup>

58. Further, with respect to Dr. Morris's argument that the Commission should modify the market share screen because traditional vertically-integrated utilities outside of an RTO typically fail the screen, we note that Dr. Morris does not provide evidentiary support for this claim. Moreover, the Commission addressed and rejected a similar claim in the Order No. 697 proceeding.<sup>117</sup> Additionally, even assuming that Dr. Morris's assertion is accurate, the fact that a particular class of market participant often fails the market share screen does not mean that the screen is flawed. The screen is intended to be a conservative measure to identify those sellers that may raise market power concerns and merit additional scrutiny; it is not intended to ensure that a particular class of market participant routinely passes the Commission's analysis. Moreover, the alternative analysis that Dr. Morris proposes is a contestable load analysis, which the Commission has previously rejected.<sup>118</sup> There is no evidence that market conditions have changed such that the Commission should now accept this analysis.

<sup>115</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 65.

<sup>116</sup> *Id.* P 70; see also *Westar Energy, Inc.*, 123 FERC ¶ 61,123 at P 22 (2008).

<sup>117</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 82, 93 (rejecting the argument that a threshold of 20 percent was inappropriate due to the fact it is difficult for investor-owned utilities outside of RTOs/ISOs to fall below the threshold because the Commission already allowed applicants to deduct native load and had decided elsewhere in the order to increase the permissible deduction).

<sup>118</sup> See, e.g., *id.* P 66–67.

59. As far as the suggestion that the Commission should consider fact-specific evidence of competitive harm or that the Commission should consider additional evidence when determining the relevant geographic market, we believe that the Commission's current analysis provides adequate flexibility to consider such arguments when raised by an applicant or an intervenor. The Commission has stated that an applicant that fails one of the indicative screens may submit alternative evidence, including a DPT or actual historical sales data, to rebut the presumption of market power. Thus, to the extent that an applicant has additional evidence regarding the competitive situation in a market, it is free to present that to the Commission and the Commission will consider that evidence on a case-by-case basis.<sup>119</sup> The Commission has further stated that intervenors may present alternative evidence, such as historical sales or transmission data, to support or rebut the results of the indicative screens.<sup>120</sup> In addition, in Order No. 697, the Commission stated that it would continue to allow sellers and intervenors on a case-by-case basis to show that some other geographic market should be considered as the relevant market in a particular case.

*The Commission orders:*

The proceeding in Docket No. RM11–14–000 is hereby terminated.

Dated: February 16, 2012.

By the Commission.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

**Appendix A: List of Commenters**

Short name or acronym	Commenter
AAI .....	American Antitrust Institute.
APPA .....	American Public Power Association.
Berkeley ....	Carl Danner, Henry Kahwaty, Keith Reutter, and Cleve Tyler of the Berkeley Research Group.
Brattle Group.	Romkaew Broehm, Peter Fox-Penner, Oliver Grawe, and James Reitzes of The Brattle Group.
Cavicchi ....	A. Joseph Cavicchi.
EEI .....	Edison Electric Institute.
ELCON .....	Electricity Consumers Resource Council.
EPSA .....	Electric Power Supply Association.
Entergy .....	Entergy Services, Inc.

<sup>119</sup> See, e.g., *Dogwood Energy, LLC*, 135 FERC ¶ 61,089 (2011); *Shell Energy North America (US), L.P.*, 135 FERC ¶ 61,090 (2011).

<sup>120</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 70; see, e.g., *AEP Power Marketing, Inc.*, 124 FERC ¶ 61,274, at P 34–36 (2008).

Short name or acronym	Commenter
FTC Staff ..	Staff of the Federal Trade Commission.
Modesto ....	Modesto Irrigation District.
Monitoring Analytics.	Monitoring Analytics, LLC.
Morris .....	Dr. John Morris.
NASUCA ...	National Association of State Utility Consumer Advocates.
NARECA ...	National Rural Electric Cooperative Association.
New York Commission.	New York State Public Service Commission.
PPL Companies.	PPL Electric Utilities Corporation; Louisville Gas & Electric Company; Kentucky Utilities Company; LG&E Energy Marketing, Inc.; PPL EnergyPlus, LLC; PPL Brunner Island, LLC; PPL Holtwood, LLC; PPL Martins Creek, LLC; PPL Montour, LLC; PPL Susquehanna, LLC; Lower Mount Bethel Energy, LLC; PPL New Jersey Solar, LLC; PPL New Jersey Biogas, LLC; PPL Renewable Energy, LLC; PPL Montana, LLC; PPL Colstrip I, LLC; and PPL Colstrip II, LLC.
Reutter .....	Keith Reutter.
TAPS .....	Transmission Access Policy Study Group.
TDU Systems.	Transmission Dependent Utility Systems.

[FR Doc. 2012–4050 Filed 2–21–12; 8:45 am]

BILLING CODE 6717–01–P

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. EL12–25–000]

**Northeast Utilities Service Company; Notice of Petition for Declaratory Order**

Take notice that on February 8, 2012, Northeast Utilities Service Company (NUSCO), on behalf of the Connecticut Light and Power Company, Public Service Company of New Hampshire, and Western Massachusetts Electric Company (collectively, NU Companies), filed a Petition for Declaratory Order, requesting that the Federal Energy Regulatory Commission (Commission) confirm that the use of at-cost pricing for the provision of certain non-power goods and services among the NU Companies through NUSCO as an accounting intermediary is appropriate, or in the alternative, waiver of the

Commission “higher of cost or market” rule under Order No. 707.<sup>1</sup>

Any person desiring 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, 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 comment date. On or before the comment date, it is not necessary to 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 email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [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 March 9, 2012.

Dated: February 14, 2012.

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

[FR Doc. 2012–4014 Filed 2–21–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL12–26–000]

#### MATL LLP; Montana Alberta Tie, Ltd; Notice of Petition for Declaratory Order

Take notice that on February 13, 2012, MATL LLP (MATL) and Montana Alberta Tie Ltd (Montana Alberta Tie)

(collectively, Applicants), filed a Petition for Declaratory Order, requesting that the Federal Energy Regulatory Commission (Commission) confirm that MATL will continue to have negotiated rate authority following the completion of a transaction under which Enbridge Inc. (Enbridge) has become the new ultimate owner of Applicants.

Any person desiring 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, 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 comment date. On or before the comment date, it is not necessary to 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 email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [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 March 14, 2012.

Dated: February 14, 2012.

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

[FR Doc. 2012–4015 Filed 2–21–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER11–4628–000]

#### PJM Interconnection, L.L.C.; Notice Establishing Post-Staff Technical Conference Comment Period

As indicated in the February 2, 2012 Supplement Notice, Supplemental Notice For Staff Technical Conference, in the above-captioned proceeding,<sup>1</sup> this notice establishes the due date for comments on the staff technical conference held on February 14, 2012 as 15 days from the date of the conference, or Wednesday, February 29, 2012. Reply comments are due seven days later on Wednesday, March 7, 2012.

Dated: February 14, 2012.

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

[FR Doc. 2012–4011 Filed 2–21–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 14329–000]

#### Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications; Grand Coulee Project Hydroelectric Authority

On December 1, 2011, the Grand Coulee Project Hydroelectric Authority filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Banks Lake Pumped Storage Project (Banks Lake Project or project) to be located on Banks Lake and Franklin D. Roosevelt Lake (Roosevelt Lake), near the town of Grand Coulee, Douglas and Grant Counties, Washington. The project would be located on federal lands administered by the U.S. Bureau of Reclamation (Reclamation) and the U.S. Bureau of Land Management (BLM). The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter

<sup>1</sup> Cross-Subsidization Restrictions on Affiliate Transactions, Order No. 707, 122 FERC ¶ 61,155 (2008).

<sup>1</sup> Supplement Notice, Supplemental Notice For Staff Technical Conference, issued February 2, 2012.