

*Description:* § 4(d) Rate Filing: Neg Rate 2018–05–09 Citadel A1 to be effective 5/9/2018.

*Filed Date:* 5/9/18.

*Accession Number:* 20180509–5103.

*Comments Due:* 5 p.m. ET 5/21/18.

*Docket Numbers:* RP18–762–001.

*Applicants:* El Paso Natural Gas Company, L.L.C.

*Description:* Tariff Amendment: Supplement to Clarifications to Request for Services and Pro Forma Filing to be effective 6/1/2018.

*Filed Date:* 5/10/18.

*Accession Number:* 20180510–5001.

*Comments Due:* 5 p.m. ET 5/22/18.

*Docket Numbers:* RP18–810–000.

*Applicants:* Natural Gas Pipeline Company of America.

*Description:* § 4(d) Rate Filing: Update Filing—Removal of Expired Agreements May 2018 to be effective 6/11/2018.

*Filed Date:* 5/10/18.

*Accession Number:* 20180510–5000.

*Comments Due:* 5 p.m. ET 5/22/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 10, 2018.

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

*Deputy Secretary.*

[FR Doc. 2018–10398 Filed 5–15–18; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2195–161]

#### Portland General Electric Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

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

a. *Type of Application:* Amendment Application.

b. *Project No.:* 2195–161.

c. *Date Filed:* March 16 and 19, 2018, and supplemented April 4, 18 and May 2, 2018.

d. *Applicant:* Portland General Electric Company.

e. *Name of Project:* Clackamas River Hydroelectric Project.

f. *Location:* Clackamas River in Clackamas County, Oregon.

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

h. *Applicant Contact:* John Esler, Project Manager, Portland General Electric Company, 121 SW Salmon St., Portland, Oregon 97204. Telephone: (503) 464–8563, or email address: [john.esler@pgn.com](mailto:john.esler@pgn.com)

i. *FERC Contact:* Mark Pawlowski, telephone: (202) 502–6052, or email address: [mark.pawlowski@ferc.gov](mailto:mark.pawlowski@ferc.gov).

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/doc-sfiling/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2195–161.

k. *Description of Request:* Portland General Electric Company (licensee) proposes to: Rebuild the Faraday development powerhouse to improve its seismic stability; remove existing turbine units 1, 2, 3, 4, and 5 and replace them with two more efficient Kaplan turbine units; install features to prevent the powerhouse from flooding during high flow events. The licensee would replace the 8-foot diameter penstocks for units 1 through 4 and the 9-foot diameter penstock for unit 5 with two 9-foot diameter penstocks. The licensee would continue to use the 8-foot diameter intakes for units 2 through 5 and cap intake 1 because it will no longer be used. The licensee proposes to replace trashracks for intakes 4 and 5

and automate the existing manual trashrack rakes.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's 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 website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email [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. *Comments, Motions to Intervene, or Protests:* Anyone may submit comments, a motion to intervene, or a protest 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, motions to intervene, or protests must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "MOTION TO INTERVENE", or "PROTEST" as applicable; (2) set forth in the heading the name of the applicant and the project number(s) of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person intervening or protesting; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the application. Agencies may obtain copies of the application directly from the applicant.

A copy of any motion to intervene or protest must be served upon each representative of the applicant specified in the particular application. If an intervenor 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. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: May 9, 2018.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2018-10442 Filed 5-15-18; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. ER12-1338-003; ER12-1347-004]

#### Order Establishing Briefing Schedule: Duke Energy Corporation Progress Energy, Inc.; Carolina Power & Light Company

*Before Commissioners:* Kevin J. McIntyre, Chairman; Cheryl A. LaFleur, Neil Chatterjee, Robert F. Powelson, and Richard Glick.

1. On July 14, 2017, the United States Court of Appeals for the District of Columbia (D.C. Circuit) issued a decision,<sup>1</sup> vacating in part the Commission's acceptance of a Joint Dispatch Agreement (JDA) between Duke Energy Carolinas, LLC (Duke Energy Carolinas) and Carolina Power & Light Company (CP&L)<sup>2</sup> and remanding the matter to the Commission for further consideration. The court found that certain provisions in the JDA result in disparate rate treatment between native-load and non-native-load wholesale customers and that the Commission had not offered a valid reason for such a disparity.<sup>3</sup> Also, the court found that the Commission failed to sufficiently respond to several arguments raised by the City of Orangeburg, South Carolina

(Orangeburg) regarding certain regulatory conditions in the JDA that Duke Energy Carolinas and CP&L agreed to include pursuant to proceedings before the North Carolina Public Utilities Commission (North Carolina Commission). As discussed below, we establish a briefing schedule to develop a better record on which to make a determination on these two issues.

### I. Background

#### A. Case History

2. The history of this case is recounted at length in earlier Commission orders.<sup>4</sup>

3. As relevant here, in 2012, Duke Energy Corporation (Duke) and Progress Energy, Inc. (Progress) filed on behalf of Duke Energy Carolinas and CP&L a JDA that provided for the joint dispatch of Duke Energy Carolinas' and CP&L's respective generation facilities to serve their loads.<sup>5</sup> In accepting the JDA, the Commission found that the allocation of the lowest energy cost under the JDA to the native-load customers of Duke Energy Carolinas and CP&L is not unduly discriminatory.<sup>6</sup> The Commission stated that this finding was consistent with Order No. 2000, wherein it acknowledged that "in areas without retail choice, state commissions have the authority to 'require a utility to sell its lowest cost power to native load, as [they] always [have].'"<sup>7</sup> Also, the Commission found that sections 3.2 (c)(ii)–(iv) of the JDA,<sup>8</sup> which listed

certain regulatory conditions that the parties agreed to include in the JDA pursuant to proceedings before North Carolina Commission, pertain to retail ratemaking and, therefore, should be removed from the agreement.<sup>9</sup>

4. Orangeburg requested rehearing, which the Commission denied in the JDA Rehearing Order.<sup>10</sup> In that order, the Commission affirmed its finding that the JDA's pricing methodology (*i.e.*, allocating the lowest cost resources to serve the parties' native loads, while allocating the higher cost resources to off-system sales (non-native load customers)) is just and reasonable.<sup>11</sup> In addition, the Commission held that this methodology does not unduly discriminate against Orangeburg, which is neither a native-load customer of Duke Energy Carolinas nor CP&L.<sup>12</sup> With that determination, the Commission declined to make a finding with respect to Orangeburg's other arguments, such as the lawfulness of the North Carolina Commission's regulatory conditions.<sup>13</sup>

#### B. D.C. Circuit Remand

5. In *Orangeburg v. FERC*, the court stated that, in accepting the JDA, the Commission approved certain provisions that established disparate treatment between native-load and non-native-load wholesale customers.<sup>14</sup> The court stated that, "according to Orangeburg, these JDA provisions operate against the backdrop of [the North Carolina Commission's] functional veto over which wholesale customers fit into the former category. The court stated that, for the orders to survive review, the Commission must have offer[ed] a valid reason for the disparity between native load and non-native load wholesale customers "under these circumstances."<sup>15</sup> The court found that the Commission's exclusive

costs for retail ratemaking and regulatory accounting and reporting purposes is preempted and [Duke Energy Carolinas] and [CP&L] will bear the full risk of any preemptive effects of federal law with respect to this Agreement.

JDA Order, 139 FERC 61,193 at P 23.

<sup>9</sup> *Id.* P 37. Also, the Commission noted that "beyond requiring the removal of these provisions from the JDA, we offer no view on the North Carolina Commission's authority to impose or apply such requirements in its proceeding." *Id.*

<sup>10</sup> JDA Rehearing Order, 151 FERC 61,242 at P 1.

<sup>11</sup> *Id.* PP 12–13.

<sup>12</sup> *Id.* at P 13.

<sup>13</sup> *Id.*

<sup>14</sup> *Orangeburg v. FERC*, 862 F.3d at 1074, 1081 (wholesale customers are treated differently based on their native-load status. . . . The JDA divides the world into two categories of customers: Native load and non-native load. Only native-load customers—including wholesale customers—enjoy access to the most reliable and lowest cost power.").

<sup>15</sup> *Id.* at 1084 (citing *Black Oak Energy*, 725 F.3d at 239) (internal quotation marks omitted).

<sup>4</sup> *City of Orangeburg, South Carolina*, 151 FERC 61,241, PP 3–10 (2015) (dismissing Orangeburg's petition for declaratory order); JDA Order, 139 FERC 61,193 at PP 2–4; JDA Rehearing Order, 151 FERC 61,242 at 2–4.

<sup>5</sup> The JDA provides that the savings from the joint dispatch—in fuel, purchased power, and related savings—will go directly to retail and wholesale customers in North Carolina and South Carolina. JDA Order, 139 FERC 61,193 at P 6.

<sup>6</sup> *Id.* P 45.

<sup>7</sup> *Id.* P 45 (quoting from *Regional Transmission Organizations*, Order No. 2000, FERC Stats. & Regs. 31,089 (1999) (Order No. 2000), *order on reh'g*, Order No. 2000–A, FERC Stats. & Regs. 31,092 (2000), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001)).

<sup>8</sup> Section 3.2 (c)(ii)–(iv) of the JDA states:

(ii) Neither [Duke Energy Carolinas] nor [CP&L] may make or incur a charge under this Agreement except in accordance with North Carolina law and the rules, regulations and orders of the [North Carolina Commission] promulgated thereunder;

(iii) Neither [Duke Energy Carolinas] nor [CP&L] may seek to reflect in its North Carolina retail rates (i) any costs incurred under this Agreement exceeding the amount allowed by the [North Carolina Commission] or (ii) any revenue level earned under the Agreement other than the amount imputed by the [North Carolina Commission]; and

(iv) Neither [Duke Energy Carolinas] nor [CP&L] will assert in any forum that the [North Carolina Commission's] authority to assign, allocate, make pro forma adjustments to or disallow revenues or

<sup>1</sup> *Orangeburg, South Carolina v. FERC*, 862 F.3d 1071 (D.C. Cir. 2017) (*Orangeburg v. FERC*).

<sup>2</sup> *Duke Energy Corp.*, 139 FERC 61,193 (2012) (JDA Order), *order denying reh'g*, 151 FERC 61,242 (2015) (JDA Rehearing Order) (together, JDA Orders).

<sup>3</sup> *Orangeburg v. FERC*, 862 F.3d at 1084 (citing *Black Oak Energy, LLC v. FERC*, 725 F.3d 230, 239 (D.C. Cir. 2013) (*Black Oak*)).