

C. "Taxing Authority" means an entity empowered under State law to render a separate tax bill based on the value of real property.

#### V. Application Content Criteria

In an application for PILT, DOE expects to see the following information:

A. Basis for calculating the PILT amount being sought;

B. Description of the real property, including non-Federal Government improvements existing at the time the Federal Government acquired the property and which still exist;

C. Date that the Federal Government acquired the real property and the date the real property was removed from the tax rolls because of its acquisition by the Federal Government;

D. Classification of real property by the Taxing Authority (if applicable) and zoning of such property in the last year it was on the tax rolls;

E. Tax rate, assessment, and total PILT payment proposed, net of applicable exclusions or offsets under these guidelines;

F. Current tax rate and assessment placed on real property with the same zoning and/or use classification, as reported by the Taxing Authority under paragraph V.D. of these guidelines;

G. Other Federal Government payments received or expected to be received by the applicant Taxing Authority which may duplicate payments made under these guidelines for the same identifiable, discrete purpose and use by the Taxing Authority; and

H. A statement that the Taxing Authority agrees to execute and deliver to DOE a valid and binding release or settlement of claims for payments related to DOE's land or property.

#### VI. Evaluation Criteria

On a case-by-case basis, DOE plans to evaluate applications for PILT, and to calculate PILT payments, using the following guidelines:

A. The real property for which a PILT payment is sought currently must be used for activities authorized by the Atomic Energy Act of 1954;

B. The real property must have been on the tax rolls of the applicant Taxing Authority immediately prior to acquisition of the real property by the Federal Government;

C. DOE will not make PILT payments for any tax year prior to the tax year during which a complete application for PILT is filed with DOE;

D. Approval of applications for PILT, as well as payments pursuant to an approved application, are subject to the

availability of funds, and amounts available for PILT are subject to the same reductions or other budgetary restrictions that may be applied to other DOE programs;

E. DOE will not make PILT payments that exceed the tax payment to which the Taxing Authority would be entitled if the real property had remained on the tax rolls in the Condition in Which It Was Acquired;

F. Property value for real property addressed in an initial application or an application for a Revised PILT Payment will be determined on the basis of the highest and best use of the real property in the same zoning classification and Taxing Authority-assigned-use classification at the time the real property was acquired by the Federal Government. The property value will exclude the value of improvements made after the Federal Government acquired the real property. The current tax rate and assessment values will be the same as those applied to comparable properties with the same use and/or tax classification in the jurisdiction of the Taxing Authority;

G. In calculating PILT payments, DOE will deduct from a PILT payment otherwise calculated by the applicant Taxing Authority an amount equal to any payment(s) by the Federal Government that will be used by the State or local jurisdiction for the same identifiable, discrete purpose; and

H. Such other relevant criteria as DOE deems appropriate in light of the information provided in the application for PILT. In order for DOE to approve or pay a Revised PILT Payment, a Taxing Authority must submit a complete application as if the Taxing Authority were a new applicant for PILT assistance, and all aspects of the application will be evaluated as if the Taxing Authority were a new applicant for such assistance.

#### VII. Intergovernmental Assistance Agreement

A. Before a Taxing Authority may receive PILT payments from DOE, the Taxing Authority's application for PILT under these guidelines must be approved in writing by the DOE Chief Financial Officer who may not delegate this authority.

B. Upon approval of an application for PILT by the DOE Chief Financial Officer and satisfaction of any conditions attached to such approval, and prior to making any PILT payments to the relevant Taxing Authority applicant, DOE will enter into an intergovernmental assistance agreement with the applicant Taxing Authority

that is satisfactory to DOE under these guidelines.

C. The standard terms of such an agreement should include, but are not limited to, provisions stating:

1. That the agreement does not apply to any tax year prior to the tax year in which a complete application for PILT was filed with DOE;

2. The date that the first payment is due;

3. That PILT payments are subject to the availability of funds;

4. That PILT payments are subject to legislative or administrative reductions in funding levels;

5. That PILT payments are subject to suspension during the pendency of any lawsuit filed by the Taxing Authority which seeks from the Federal Government any real property taxes or their equivalent; and

6. That PILT is not an entitlement, and, accordingly, nothing in the agreement and no conduct of DOE under or relating to the agreement shall be interpreted to preclude or place any limitations or conditions on the Secretary of Energy's exercise of his discretion under section 168 of the Atomic Energy Act of 1954, including his discretion to unilaterally terminate the agreement with reasonable notice.

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#### DEPARTMENT OF ENERGY

[Docket No. EC03-89-000, et al.]

#### Federal Energy Regulatory Commission FPL Energy New York, LLC, et al.; Electric Rate and Corporate Filings

May 19, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

#### 1. FPL Energy New York, LLC, Energy Rockaway Peaking Facilities, LLC

[Docket No. EC03-89-000FPL]

Take notice that on May 13, 2003, pursuant to Section 203 of the Federal Power Act, FPL Energy New York, LLC (FPLE New York) and FPL Energy Rockaway Peaking Facilities, LLC (FPLE Rockaway) (Jointly, the Applicants) filed a joint application for approval of a corporate reorganization. Applicants state that the proposed reorganization will not change the ultimate ownership of the facilities.

The Applicants state that a copy of the application has been served on the New York Public Service Commission, 3

Empire State Plaza, Albany, NY 12223-1350. The Applicants have requested that the filing become effective at the earliest possible date, but no later than June 18, 2003. *Comment Date:* June 3, 2003.

## 2. TPS GP, Inc., TPS LP, Inc., Panda GS V, LLC, and Panda GS VI, LLC

[Docket No. EC03-90-000]

Take notice that on May 13, 2003, TPS GP, Inc., TPS LP, Inc., Panda GS V, LLC and Panda GS VI, LLC (collectively, Applicants) filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities for Panda GS V, LLC to divest, and for TPS GP, Inc. to acquire, all of Panda GS V, LLC's interest in TECO-PANDA Generating Company, LP (TPGC) and for Panda GS VI, LLC to divest, and for TPS LP, Inc. to acquire, all of Panda GS VI, LLC's interest in TPGC. Applicants state that TPGC, through its wholly-owned subsidiaries, owns Panda Gila River, L.P., owner and operator of a 2,350 MW natural gas-fired, combined-cycle merchant power plant located in Maricopa County, Arizona; Union Power Partners, L.P., owner and operator of a 2,220 MW natural gas-fired, combined-cycle merchant power plant located in Union County, Arkansas; and Trans-Union Interstate Pipeline, L.P., owner and operator of a 42-mile open access natural gas pipeline extending from Louisiana to Arkansas. *Comment Date:* June 3, 2003.

## 3. New England Power Pool

[Docket No. ER03-563-005]

Take notice that on May 14, 2003, the New England Power Pool (NEPOOL) Participants Committee submitted a filing with the Federal Energy Regulatory Commission (Commission) that reflects the escrow arrangements entered into between NEPOOL, ISO New England Inc. and each of Devon Power LLC, Middletown Power LLC, Montville Power LLC, and Norwalk Power LLC (collectively, NRG) to assure that the funds collected from NEPOOL Participants for the maintenance of NRG's generating facilities by ISO New England Inc. as NEPOOL's billing agent on and after April 21, 2003, are used solely for that purpose, in accordance with the Commission's order in *Devon Power LLC et. al.*, 102 FERC ¶ 61,314 (2003).

The Participants Committee states that copies of this filing were sent to the NEPOOL Participants and the New England state governors and regulatory

commissions. *Comment Date:* June 4, 2003.

## 4. Empire District Electric Company

[Docket No. ER03-626-001]

Take notice that on May 14, 2003, the Empire District Electric Company (Empire) submitted a revised version of its Empire Wholesale Electric Service Schedule W-1 (Schedule W-1) in compliance with the Federal Energy Regulatory Commission's April 25, 2003 Order in the proceeding.

Empire states that copies of this filing were served on all customers under Schedule W-1 and on all affected state commissions. *Comment Date:* June 4, 2003

## 5. Michigan Electric Transmission Company, LLC

[Docket No. ER03-692-001]

Take notice that on May 13, 2003, Michigan Electric Transmission Company, LLC (METC) tendered for filing with the Federal Energy Regulatory Commission (Commission) a revised version of the Interconnection Facilities Agreement between METC and the City of Hart (Interconnection Agreement and Hart, respectively). METC states that a previous version of this agreement was filed with the Commission on April 1, 2003. METC requests an effective date of March 13, 2003 for the Interconnection Agreement.

METC states that copies of this filing were served on Hart and all parties included on the Commission's official service list established in this proceeding. *Comment Date:* June 3, 2003.

## 6. American Transmission Company LLC

[Docket No. ER03-847-000]

Take notice that on May 14, 2003, American Transmission Company LLC (ATCLLC) tendered for filing a Distribution-Transmission Interconnection Agreement between ATCLLC and The City of Elkhorn. ATCLLC requests an effective date of April 14, 2003. *Comment Date:* June 4, 2003.

### Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 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 motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866)208-3676, or for TTY, contact (202)502-8659. 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 the "e-Filing" link. The Commission strongly encourages electronic filings.

**Magalie R. Salas,**

*Secretary.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7503-3]

### Proposed Settlement Agreement

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed consent order; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended, 42 U.S.C. 7413(g), notice is hereby given of a proposed consent order in *American Lung Association v. Whitman*, No. 1:03CV00778 (D.D.C. 2003).

This case concerns a challenge, pursuant to section 304 (a) (2) of the Act (42 U.S.C. 6704 (a) (2)), to EPA's failure to perform the mandatory duty of completing reviews of the air quality criteria and national ambient air quality standards (NAAQS) for particulate matter and for ozone, making any appropriate revisions in such criteria and standards, and proposing such new standards or revisions of standards as may be appropriate with the Act's mandate to protect public health and welfare. These duties arise under section 109(d) of the Act (42 U.S.C. 7409(d)).

The proposed consent order is between EPA and the following parties: