

public interest) after the date of the filing, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup> At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission has decided, consistent with the protection of investors and the public interest, to waive the five-day pre-filing notice and 30-day operative date to allow Nasdaq to immediately provide for a 30-second maximum time period for Order-Delivery ECNs to respond to non-directed orders sent to them by SuperMontage.<sup>12</sup> The Commission believes that this should allow ECNs to continue to participate in SuperMontage without their quotes being zeroed out as a result of system queues.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Nasdaq. All submissions should refer to file number SR-NASD-2003-108, and should be submitted by August 14, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-18901 Filed 7-23-03; 8:45 am]

**BILLING CODE 8010-01-P**

## DEPARTMENT OF STATE

[Public Notice 4356]

### Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 1 p.m. on Thursday, August 7, 2003, in Room 4438 of the Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, DC, 20950. The primary purpose of the meeting is to prepare for the 8th Session of the International Maritime Organization (IMO) Radio Communications and Search and Rescue (COMSAR) of the Subcommittee on Safety of Life at Sea, to be held at IMO Headquarters in London, England from February 16-20, 2004.

Among the items of particular interest are:

- Maritime Safety Information for GMDSS.
- Development of a procedure for recognition of mobile satellite systems.
- Revision of performance standards for NAVTEX equipment.
- Emergency radiocommunications, including false alerts and interference.
- Large passenger ship safety.
- Emergency radiocommunications, including false alerts and interference.
- Issues related to maritime security.
- Developments in maritime radiocommunication systems and technology, including long range tracking.
- Matters concerning Search and Rescue.
- Developments in maritime radiocommunication systems and technology.
- Planning for the 8th session of COMSAR.

Members of the public may attend these meetings up to the seating capacity of the rooms. Interested persons may seek information, including meeting room numbers, by writing Mr. Russell S. Levin, U.S. Coast Guard Headquarters, Commandant (G-SCT-2), Room 6509, 2100 Second Street, SW., Washington, DC 20593-0001; by calling: (202) 267-1389; or by sending Internet electronic mail to [rlevin@comdt.uscg.mil](mailto:rlevin@comdt.uscg.mil).

Dated: July 16, 2003.

**Margaret F. Hayes,**

*Director, Office of Ocean Affairs, Department of State.*

[FR Doc. 03-18864 Filed 7-23-03; 8:45 am]

**BILLING CODE 4710-07-P**

## TENNESSEE VALLEY AUTHORITY

### Patriot Pipeline Crossing of the South Fork Holston River, Fort Patrick Henry Reservoir, Sullivan County, TN

**AGENCY:** Tennessee Valley Authority (TVA).

**ACTION:** Record of decision and adoption of final environmental impact statement for the Patriot Project prepared by the Federal Energy Regulatory Commission (FERC).

**SUMMARY:** This notice is provided in accordance with the Council on Environmental Quality's regulations (40 Code of Federal Regulations [CFR] Sections 1500 to 1508) and TVA's procedures implementing the National Environmental Policy Act (NEPA).

On June 17, 2003, the TVA Board of Directors decided to grant a 30-year easement over 0.3 acre of Tract No. FHR-1032 to East Tennessee Natural Gas Company (ETNG). TVA would issue the easement under terms provided in the Mineral Leasing Act (30 United States Code (U.S.C.) 185). The easement would allow the company to install a new 24-inch-diameter natural gas pipeline loop on federal land managed by TVA as part of Fort Patrick Henry Reservoir. The natural gas pipeline loop proposed across TVA land in Sullivan County is part of a pipeline expansion and new pipeline construction project known as the Patriot Project. The environmental impacts of the Patriot Project were assessed in a 2002 Environmental Impact Statement (EIS) prepared by FERC. TVA was a cooperating agency in the preparation of this EIS. TVA has independently reviewed the EIS prepared by FERC and found that the EIS adequately addresses the environmental impacts of the Patriot Project. Accordingly, pursuant to 40 CFR 1506.3(c), TVA is herewith adopting FERC's EIS for the Patriot Project. TVA has also determined that the alternatives considered in the EIS and the decision based on them will further the policies set forth in Sections 101 and 102(1) of NEPA.

**FOR FURTHER INFORMATION CONTACT:** Harold M. Draper, NEPA Team Leader, Environmental Policy and Planning, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 8C, Knoxville,

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

Tennessee 37902-1499; telephone (865) 632-6889 or e-mail [hmdraper@tva.gov](mailto:hmdraper@tva.gov).

#### SUPPLEMENTARY INFORMATION:

*Background:* On July 26, 2001, ETNG filed an application with FERC for a Certificate of Public Convenience and Necessity under the Natural Gas Act for authorization to construct and operate pipeline facilities in Tennessee, Virginia, and North Carolina. The proposed facilities would involve an expansion of ETNG's existing mainline facilities in Tennessee and Virginia and an extension of a new pipeline across southwestern Virginia and north-central North Carolina. Activities related to the mainline expansion would include compressor station construction and modifications, pipeline uprates, pipeline loop construction, and abandonment at numerous locations between Perry County, Tennessee, and Wythe County, Virginia. The Patriot Extension would involve construction of 99.7 miles of new pipeline and associated meter stations and taps in Wythe, Carroll, Floyd, Patrick, Henry, and Pittsylvania Counties in Virginia, and Rockingham County in North Carolina. The Patriot Project would provide natural gas to Duke Energy electricity generation facilities in Murray County, Georgia, and Wythe and Henry Counties, Virginia. In addition, gas would be provided to NUI Energy Brokers, Progress Energy, Public Service Company of North Carolina, and United Cities Gas Company for distribution to residential, commercial, and industrial customers in Virginia and North Carolina. The project would interconnect with the existing Transcontinental Gas Pipeline Corporation (Transco) facility in Rockingham County, North Carolina.

FERC issued a Notice of intent to prepare an EIS for the proposed Patriot Project on October 2, 2001. Meetings to inform local citizens about the project and to identify environmental issues to be addressed in the EIS were held in Stuart, Wytheville, Hillsville, and Martinsville, Virginia, and in Bristol and Chattanooga, Tennessee, in October and November 2001. TVA responded to the notice informing FERC that TVA would likely have a land use approval action related to the project. Because of its land use jurisdiction, TVA was subsequently included as a cooperating agency in the Draft EIS (DEIS). The Environmental Protection Agency (EPA) published Notice of Availability (NOA) of the DEIS in the **Federal Register** on May 3, 2002. Public meetings to receive comments on the DEIS were held in Martinsville, Stuart, and Hillsville, Virginia, and in Signal Mountain and

Bristol, Tennessee, in May 2002. As a cooperating agency, TVA provided comments on the DEIS. During the DEIS public comment period, ETNG filed an amendment to the Patriot Project to add facilities previously included in a FERC certificate for another TVA project. The TVA project facilities had been previously reviewed by FERC when considering construction of a proposed TVA power plant in Franklin County, Tennessee. FERC completed an Environmental Assessment and issued a certificate for the proposed pipeline loops and other improvements needed for the TVA project on December 21, 2001. TVA completed a Final EIS (FEIS) on the proposed Franklin County Power Plant in August 2001 (EPA published NOA of the FEIS on August 31, 2001), but in 2002, decided not to proceed with construction. ETNG subsequently decided to incorporate certain previously approved facilities into its Patriot Project and to request that the previous certificate be vacated upon approval of the Patriot Project. ETNG also requested a realignment of the pipeline loop in the vicinity of the South Fork Holston River to minimize impacts to the Smith Shoals Subdivision and to provide for a shorter river crossing. This and other route variations were evaluated in more detail prior to completion of the FEIS. After considering comments on the DEIS, FERC published the FEIS in September 2002. EPA published NOA of the Patriot Project FEIS in the **Federal Register** on September 27, 2002. FERC issued its certificate on November 20, 2002, authorizing construction of facilities for the Patriot Project subject to certain conditions to minimize impacts to the environment. FERC denied all requests for rehearing on February 27, 2003.

#### Alternatives Considered

The EIS prepared by FERC considered use of other pipeline systems (System Alternatives), Major Route Alternatives, and Route Variations, in addition to No Action. The most likely System Alternative would involve obtaining gas to meet the project purpose and need from Transco. However, this alternative would involve extensive pipeline construction along routes similar to those required by the Patriot Project. A Mainline Expansion Route Alternative was evaluated in the Signal Mountain area, but was determined to increase impacts to forest land and would not have avoided impacts to nearby residences. The EIS evaluated 13 major route variations that could potentially deliver gas from the existing ETNG system to the area of Eden, North Carolina (Henry County Power, LLC),

and Wytheville (Duke Energy North America Wythe, LLC), Virginia. None of the major route variations offered any environmental advantages over the proposed delivery system, and many of these variations augmented the length of the pipeline, increasing the potential for environmental impacts. The EIS evaluated 8 minor route variations to minimize impacts to specific sensitive resources or nearby residences. Six of these variations were not recommended due to increases in environmental impacts, but two were found to offer environmental advantages. A site variation that offered environmental advantages was the South Fork Holston River variation involving TVA land. Finally, the EIS also evaluated eight site alternatives for aboveground facilities, such as compressor stations. None of these site alternatives were found to offer environmental advantages over the proposed route.

For the proposed crossing of the South Fork Holston River (the action that requires an easement from TVA), FERC and TVA considered a route variation that would require the new loop to follow a slightly longer course than that currently followed by the existing pipeline. Since the route originally proposed would have run parallel to the existing pipeline, there would not be enough space for a drill rig and associated staging area. The route variation would allow additional space by moving the river crossing 2,000 feet downstream of the existing river crossing. The route variation is 0.58 miles longer, would increase the land affected during construction by 7.3 acres, and would increase impacts to forest lands by 3.2 acres as compared to the expansion of the existing route across TVA land. However, the variation, by avoiding the widening of the current pipeline crossing through Smith Shoals Subdivision, would cause lesser traffic and noise impacts to nearby residents. Further, drilling along the original pipeline route would also have involved crossing land managed by the Tennessee Wildlife Resources Agency and could have potentially impacted an archaeological site. Impacts to these sensitive resources would be avoided with the route variation. TVA agrees that the FERC alternatives would achieve the purposes of Sections 101 and 102(1) of NEPA because they seek to minimize impacts to important natural features and public land, while allowing energy resources to be transported to end users.

On November 20, 2002, FERC released an order issuing a certificate for the Patriot Project. The certificate issued by FERC on November 20, 2002,

authorizes ETNG to construct the pipeline along the applicant's proposed route, as modified by the South Fork Holston River and Reeds Creek Route Variations. The consultation process under Section 7 of the Endangered Species Act was completed on March 7, 2003, with the issuance of a Biological Opinion by the U.S. Fish and Wildlife Service. The consultation process under Section 106 of the National Historic Preservation Act was completed with the execution of a Programmatic Agreement (PA) between FERC and the Virginia and Tennessee State Historic Preservation Officers on April 29, 2003. FERC was the lead agency in these consultation processes. TVA was a concurring party to the PA.

*Decision:* TVA has decided to issue a 30-year term easement to ETNG for pipeline purposes under the Mineral Leasing Act (30 U.S.C. 185). The easement would allow ETNG to implement the South Fork Holston Route Variation and to cross 0.3 acre of TVA Tract No. FHR-1032 on Fort Patrick Henry Reservoir at South Fork Holston River Mile 16. In reaching its decision, TVA has reviewed the environmental impacts and public and agency concerns expressed for the entire pipeline project in Tennessee, Virginia, and North Carolina. TVA believes that the EIS process has enabled a thorough review of potential impacts and resulted in modifications and safeguards that would minimize adverse environmental impacts, while still allowing a needed energy supply project to proceed. The choice of the South Fork Holston River Route Variation and the use of directional drill, along with successful implementation of the 69 specific environmental safeguards contained in the November 20, 2002, FERC order, would minimize potential adverse environmental impacts of the proposal.

#### **Environmentally Preferable Alternative**

The proposed Patriot Project, as modified by the route variations and environmental protection measures approved by FERC, would avoid impacts to significant environmental resources, while accomplishing the applicant and FERC's goal of additional competitive natural gas supply for Georgia, North Carolina, and Virginia customers. Other alternatives, including the No Action Alternative, may result in greater impacts elsewhere as these energy demands are met through other energy supply system upgrades. Therefore, TVA concludes that the proposed Patriot Project route is an environmentally preferable alternative for supplying natural gas to Tennessee, Virginia, and North Carolina customers.

#### **Environmental Consequences and Commitments**

The Patriot Project would affect terrestrial and aquatic resources in a corridor stretching across parts of Tennessee, Virginia, and North Carolina. A total of 2,707 acres of land would be affected by new construction. The mainline expansion portion of the project generally would follow existing pipeline rights-of-way and would have minimal environmental impacts. However, construction would take place within 50 feet of 254 residences. A new pipeline corridor (the Patriot Extension) would be cleared for the pipeline extension and lateral lines between Wytheville, Virginia, and Eden, North Carolina. The Patriot Extension would affect an additional 28 residences. Recreational and public land would be crossed in four locations. In addition to the 0.3 acre of TVA land, the project would cross the Appalachian National Scenic Trail, New River Trail State Park, and Blue Ridge Parkway. Impacts to these properties would be minimized by time-of-year restrictions and the use of horizontal directional drill as opposed to open-trench construction. In exchange for a right-of-way easement to cross the Appalachian National Scenic Trail, the National Park Service would be provided title to 2 acres adjacent to the trail in Smyth County, Virginia. A billboard on Interstate 81, which is visible from the trail, would be removed. The crossing of the Blue Ridge Parkway in Patrick County, Virginia, would take place by horizontal directional drill that enters and exits outside National Park Service land.

About 34 percent of the proposed route is now forested and would be cleared for pipeline construction. A total of 922 acres of forested habitat would be cleared; of this, 404 acres would be permanently converted to herbaceous habitat or industrial use at compressor stations. The project would cross 367 surface water bodies. Major rivers along the route, including the South Fork Holston River, New River, and Smith River, would be crossed by horizontal directional drill to minimize impacts. Dry-crossing methods would be used for other stream crossings. A total of 71 wetland totaling 12.6 acres would be crossed. Of this, about 4.5 acres of forested wetlands would be permanently cleared. The project would not likely adversely affect the gray bat, Indiana bat small whorled pogonia, and large-flowered skullcap, but may affect the small-anthered bittercress and James spiny mussel. No direct impacts to small-anthered bittercress plants are expected, and no reasonable and

prudent measures (RPMs) were identified by the U.S. Fish and Wildlife Service to minimize "incidental take." A number of RPMs, including time-of-year restrictions, will be implemented to minimize "take" of the James spiny mussel. Construction activities and operation of compressor stations would have minimal air emissions. Compressor stations would be constructed in such a manner that would minimize potential noise impacts and would be limited to an average day/night level of 55 decibels (dB) on the A-weighted (dBA) scale. Three archaeological sites would likely be adversely affected by pipeline construction.

FERC has adopted mitigation measures to avoid or minimize environmental harm. TVA believes that the measures required by FERC in its November 20, 2002, order would substantially reduce the environmental impacts of this project. These include detailed construction Best Management Practices, use of environmental inspectors, compliance with Section 106 of the National Historic Preservation Act by adherence to the PA, and surveys of properties along the expansion route for the bog turtle, James spiny mussel, and small-anthered bittercress. The endangered species surveys have been completed, and formal consultation under the Endangered Species Act has been concluded. The project is not likely to jeopardize the continued existence of the small-anthered bittercress and James spiny mussel. Potential adverse effects to cultural resources would be resolved by treatment plans outlined in a PA with the Virginia and Tennessee State Historic Preservation Officers.

In its order issuing a certificate for the project, FERC provided 69 environmental protection-related conditions to minimize project impacts. For the South Fork Holston River crossing at Fort Patrick Henry Reservoir, FERC required (condition no. 67) that the crossing be made by horizontal directional drill. In addition, ETNG was required to submit a site-specific construction and contingency plan for the crossing. The plan was required (1) to identify how construction noise would be reduced during the directional drill, (2) to include projected daytime and nighttime noise levels at nearby residences, and (3) to provide mitigation measures that would be used to minimize noise at the residences if the noise levels would exceed an average level of 55 dBA at any residence.

TVA has reviewed the construction and contingency plan required by FERC condition No. 67. To reduce

construction noise at the directional drill entry and exit sites, ETNG would install a temporary noise barrier system at both the entry and exit points. The barrier would consist of 3/4-inch-thick plywood with 2-inch-thick fiberglass duct board attached to 50 to 60 percent of the inside surface. This should provide an 8 to 12 dB reduction of the noise associated with drilling equipment.

No surface disturbance is proposed on the federal property. The property would be used for an underground pipeline to be installed by directional drill from adjacent private property. The subsurface geology of the area where the drill is proposed is limestone. The estimated directional drill success rate for this type of geology is estimated at 80 percent or greater. The three possible modes of failure are estimated to be Pilot-Hole Failure, Reaming Failure, and Pullback Failure. These failures occur when soil or rock collapses on the drilling pipe. To minimize the possibility of failure, a casing pipe will be installed during the pilot-hole operation to ensure that gravel and cobbles will not fall onto the drill string and increase the torque needed to operate the drill pipe. This casing pipe would also reduce the chance of drilling fluids being released into the environment if a failure occurs.

If directional drill failure does occur, the crossing of the South Fork Holston River would take place by traditional open-cut pipeline construction methods. A backhoe would work off of floating barges in the river. In this contingency, TVA would require further environmental reviews, including compliance with Section 106 of the National Historic Preservation Act due to the possible presence of an archaeological site. The FERC approval contains enforceable conditions that will minimize impacts of the pipeline construction across the TVA land and across other Tennessee Valley private land. Further, the RPMs identified in the Biological Opinion of March 7, 2003, could be independently enforced by the Secretary of the Interior under the Endangered Species Act.

These conditions require:

1. ETNG to adhere to its Erosion and Sedimentation Control Plan of July 20, 2001, contained in Appendix C-1 of the FERC EIS.
2. ETNG to adhere to its Spill Prevention Control and Countermeasure Plan and Preparedness, Prevention, and Contingency Plan of May 7, 2001, contained in Appendix C of the FERC EIS.

3. ETNG to adhere to U.S. Department of Transportation Pipeline Safety Requirements.

4. ETNG to comply with the 69 measures appended to FERC's Order Denying Rehearing, Authorizing Abandonment, and Issuing Certificate of November 20, 2002 (Docket Nos. CP01-415 and CP 01-375).

#### **TVA Commitment List**

1. ETNG will install a temporary noise barrier system at both the entry and exit points of the directional drill. The barrier will consist of 3/4-inch-thick plywood with 2-inch-thick fiberglass duct board attached to 50 to 60 percent of the inside surface.

2. A casing pipe will be installed during the directional drill pilot-hole operation to ensure that gravel and cobbles will not fall onto the drill string and increase the torque needed to operate the drill pipe.

3. If directional drill failure occurs, work will stop and additional approvals will be needed from TVA for open-cut construction.

With implementation of these commitments, TVA believes that the impacts of its right-of-way approval under the Mineral Leasing Act will be minimized.

Dated: July 17, 2003.

**Kathryn J. Jackson,**

*Executive Vice President, River System Operations & Environment.*

[FR Doc. 03-18797 Filed 7-23-03; 8:45 am]

**BILLING CODE 8120-08-M**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

[Summary Notice No. PE-2003-43]

#### **Petition for Exemption; Summary of Petition Received**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a certain petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the

legal status of any petition or its final disposition.

**DATES:** Comments on this petition received must identify the petition docket number involved and must be received on or before August 13, 2003.

**ADDRESSES:** Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2003-15528 at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to <http://dms.dot.gov>. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1-800-647-5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at <http://dms.dot.gov>.

#### **FOR FURTHER INFORMATION CONTACT:**

Mike Brown, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Tel. (202) 267-7653.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on July 21, 2003.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

#### **Petition for Exemption**

*Docket No.:* FAA-2003-15528.

*Petitioner:* Honeywell.

*Section of 14 CFR Affected:* 14 CFR part 21.603(a) and 21.607(d).

*Description of Relief Sought:* To permit Honeywell, at the time of manufacture, to continue production and support of components during the Technical Standard Order Authorization (TSOA) application process. Honeywell would like this exemption to be in place for one year.

[FR Doc. 03-18902 Filed 7-23-03; 8:45 am]

**BILLING CODE 4910-13-P**