

agencies' additional environmental review. DOE and BLM have interpreted this language to require them to conduct their NEPA review from a fresh slate, as if the transmission lines had never been built. Accordingly, the discussion and analysis of the transmission lines are presented in this Draft EIS as if the lines do not exist.

On October 30, 2003, DOE published in the **Federal Register** (68 FR 61796) a Notice of Intent (NOI) to prepare an EIS for the proposed projects. The NOI informed the public of the proposed scope of the EIS, solicited public participation in the scoping process, and announced public scoping meetings that were held on November 20, 2003, in El Centro, and Calexico, California. The public scoping period closed on December 1, 2003. Comments received during the public scoping process were used in preparing the Draft EIS.

#### Action Alternatives Considered

The action alternatives analyzed in the Draft EIS are:

1. The proposed action of granting one or both Presidential permits and corresponding ROWs. This sets forth the impacts in the United States of constructing and operating the line(s) from powerplants in Mexico, as those plants are presently designed.

2. The "Alternative Technologies" action of granting one or both permits and corresponding ROWs to authorize transmission lines that connect to powerplants that would employ more efficient emissions controls and alternative cooling technologies.

3. The "Mitigation Measures" action of granting one or both permits and corresponding ROWs to authorize transmission lines whose developers would employ off-site mitigation measures to minimize environmental impacts in the United States.

NEPA requires the identification of the agency's preferred alternative or alternatives in a Draft EIS if one or more exists or, if one does not yet exist at the draft stage, in the Final EIS, 40 CFR Part 1502.14(e). DOE's and BLM's preferred alternative is to grant both permits and corresponding ROW grants.

#### No Action Alternative

The Council on Environmental Quality's (CEQ) regulations require that an agency "include the alternative of no action" as one of the alternatives it considers, 40 CFR 1502.14(d). For DOE and BLM, "no action" means neither of the proposed transmission lines would be constructed and the environmental impacts associated with their construction and operation would not occur. In the case of Sempra, lack of the

requested transmission line would preclude the powerplant from operating because there would be no delivery path for the electricity generated. Similarly, in the case of Interger, as discussed more fully in the Draft EIS, only a portion of the electricity generated inside Mexico would have been available to be transmitted to the United States because of powerplant design. One of Interger's generating units designated for export to the United States would be connected solely to the proposed transmission line. Its other generating unit designated for export to the United States normally would be connected to the proposed transmission line but also could be connected to other transmission lines within Mexico for export to the United States over an existing international transmission line. If the permit is denied, the electricity produced by the generating unit connected solely to the proposed transmission line would not have a transmission path.

The Draft EIS analyzes the potential environmental effects, or impacts, of Sempra and Interger constructing and operating the proposed transmission lines. CEQ's regulations require that an EIS contain a description of the environmental effects (both positive and negative) of the proposed alternatives. The regulations also distinguish between direct and indirect effects (40 CFR 1508.8). Direct effects are caused by an action and occur at the same time and place as the action. Indirect effects are reasonably foreseeable effects caused by the action that occur later in time or farther in distance. Both direct and indirect effects are addressed in the Draft EIS. CEQ's regulations also require that an EIS contain a description of the cumulative impacts of the proposed alternatives (40 CFR 1508.7). CEQ's regulations define cumulative impacts as those that result from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions. Cumulative impacts are addressed in the Draft EIS.

The Draft EIS presents information on the potential environmental effects of the construction and subsequent operation of the transmission lines on land use and recreation, visual resources, biological resources, cultural resources, socioeconomics, geology and soils, water resources, air quality, noise, human health and environment, infrastructure, transportation, and minority and low income populations. The Draft EIS also includes a Floodplains and Wetlands Assessment, in accordance with E.O. 11988,

*Floodplain Management*, and E.O. 11990, *Protection of Wetlands*.

#### Availability of the Draft EIS

DOE has distributed copies of the Draft EIS to appropriate Members of Congress, state and local government officials in California, American Indian tribal governments, and other Federal agencies, groups, and interested parties. Copies of the document may be obtained by contacting DOE as provided in the section of this notice entitled **ADDRESSES**. Copies of the Draft EIS and supporting documents are also available for inspection at the locations identified below:

1. U.S. Department of Energy, Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC.

2. Bureau of Land Management, El Centro Field Office, 1661 South 4th Street, El Centro, California.

Comments on the Draft EIS may be submitted to Mrs. Russell (*see ADDRESSES*, above) or provided at the public hearings (*see DATES*, above). After the public comment period ends on June 30, 2004, DOE and BLM will consider all comments received, revise the Draft EIS as appropriate, and issue a Final EIS. DOE and BLM will consider the Final EIS, along with other information, such as electric reliability and national policy factors, in deciding whether or not to issue Presidential permits or right-of-way grants.

Issued in Washington, DC, this 5th day of May, 2004.

**Anthony J. Como,**

*Deputy Director, Electric Power Regulation, Office of Coal and Power Import/Export, Office of Coal and Power Systems, Office of Fossil Energy.*

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#### DEPARTMENT OF ENERGY

##### Federal Energy Regulatory Commission

[Docket No. ER04-617-000]

##### Black River Generation, LLC; Notice of Issuance of Order

May 4, 2004.

Black River Generation, LLC (Black River) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for wholesale sales of capacity, energy and ancillary services at market-based rates. Black River also requested waiver of various Commission regulations. In particular, Black River

requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Black River.

On April 30, 2004, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Black River should file a motion to intervene or protest 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).

Notice is hereby given that the deadline for filing motions to intervene or protests, is June 1, 2004.

Absent a request to be heard in opposition by the deadline above, Black River is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Black River, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Black River's issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at <http://www.ferc.gov>, using the e library (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, 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.

**Linda Mitry,**

*Acting Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL04-98-000]

#### **Carl Blumstein, Severin Borenstein, Douglas Grandy, Manuel Robledo, Alan Vallow v. California Power Exchange Corporation; Notice of Complaint Requesting Fast Track Processing**

April 30, 2004.

Take notice that on April 29, 2004, Carl Blumstein, Severin Borenstein, Douglas Grandy, Manuel Robledo, and Alan Vallow (Complainants) jointly filed with the Federal Energy Regulatory Commission a formal complaint pursuant to section 206 of the Federal Power Act alleging the failure of the California Power Exchange to disclose new litigation in violation of the Commission's order issued April 1, 2003 in Docket No. EC03-20-000, *et al.*, 103 FERC ¶ 61,001 and the unauthorized use of jurisdictional assets for new litigation in violation of the Commission's order issued July 30, 2002 in Docket Nos. EL02-63-000 and EL02-104-000, 100 FERC ¶ 61,124.

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. The answer to the complaint and all comments, interventions or protests must be filed on or before the comment date below. 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 eLibrary (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 [FEROnlineSupport@ferc.gov](mailto:FEROnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659. The answer to the complaint, comments, 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.

*Comment Date:* May 10, 2004.

**Linda Mitry,**

*Acting Secretary.*

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## DEPARTMENT OF ENERGY

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