

Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 *et seq.*).

Ballots will be mailed to all growers of record and may also be obtained from the referendum agents and from their appointees.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601–674.

Dated: April 25, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket Nos. RM05–10–000 and AD04–13–000]

Imbalance Provisions for Intermittent Resources; Assessing the State of Wind Energy in Wholesale Electricity Markets

Issued April 25, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is withdrawing its proposal to amend its regulations to require public utilities to append to their open access transmission tariffs (OATTs) an intermittent generator imbalance service schedule in light of the imbalance-related reforms adopted in Order No. 890, 72 FR 12266 (Mar. 15, 2007).

DATES: The notice of proposed rulemaking published on April 14, 2005, at 70 FR 21349, is withdrawn as of May 1, 2007.

FOR FURTHER INFORMATION CONTACT:

W. Mason Emmett (Legal Information), Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6540.

Daniel Hedberg (Technical Information), Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE.,

Washington, DC 20426, (202) 502–6243.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T.

Kelliher, Chairman; Sudeen G. Kelly, Marc Spitzer, Philip D. Moeller, and Jon Wellinghoff.

Withdrawal of Notice of Proposed Rulemaking

1. On April 14, 2005, the Commission issued a Notice of Proposed Rulemaking (NOPR) in this proceeding.¹ For the reasons set forth below, we are withdrawing the NOPR and terminating this rulemaking.

2. In the NOPR, the Commission proposed to clarify and amend imbalance-related provisions in the *pro forma* Open Access Transmission Tariff (OATT) as applied to intermittent resources.² The Commission concluded that, although the number of intermittent resources had grown since the adoption of the *pro forma* OATT in Order No. 888,³ such resources were historically hesitant to take service under the *pro forma* OATT, thereby accessing broader markets, due to the application of imbalance provisions that were designed to apply to resources with the ability to control fuel input and thus schedule their energy with precision. The Commission concluded that the imbalance provisions of the Order No. 888 *pro forma* OATT may no longer be just, reasonable or not unduly discriminatory or preferential as applied to intermittent resources that by nature are weather-driven.⁴ The Commission

¹ *Imbalance Provisions for Intermittent Resources Assessing the State of Wind Energy in Wholesale Electricity Markets*, Notice of Proposed Rulemaking, 70 FR 21349 (Apr. 26, 2005), FERC Stats. & Regs. ¶ 32,581 (2005).

² For purposes of the NOPR, an intermittent resource was defined as an electric generator that is not dispatchable and cannot store its fuel source and therefore cannot respond to changes in system demand or respond to transmission security constraints.

³ *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 FR 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888–A, 62 FR 12,274 (March 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part, remanded in part on other grounds sub nom. Transmission Access Policy Study Group, et al. v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

⁴ The Commission began exploring these issues at a technical conference held on December 1, 2004, in Denver, Colorado in Docket No. AD04–13–000. Other transmission-related issues regarding wind energy were also discussed at the technical conference and in post-technical conference comments, such as the interconnection process, credits for transmission upgrades, and adoption of

therefore proposed to establish a standard schedule under the *pro forma* OATT to address generator imbalances solely for intermittent resources and sought comment on issues related to that proposal.

3. Since issuance of the NOPR, the Commission has completed its OATT reform rulemaking in Docket Nos. RM05–25–000, *et al.*, issuing Order No. 890 on February 16, 2007.⁵ Among other things, Order No. 890 adopted a new Schedule 9 to govern generator imbalances. Under Schedule 9, imbalance charges “must be based on incremental cost or some multiple therefore” and “must provide an incentive for accurate scheduling, such as by increasing the percentage of the adder above (and below) incremental cost as the deviation becomes larger.”⁶ Of particular relevance to this proceeding, the Commission also required that imbalance provisions “account for the special circumstances presented by intermittent generators and their limited ability to precisely forecast or control generation levels, such as waiving the more punitive adders associated with higher deviations.”⁷

4. As a result of the imbalance-related reforms adopted in Order No. 890, and in particular the requirement that generator imbalance provisions in each transmission provider's OATT take into account an intermittent resources' limited ability to forecast or control generation levels, the Commission concludes that it is no longer necessary to address the NOPR proposal to add to the *pro forma* OATT a generator imbalance schedule solely for intermittent resources. The reforms adopted in Order No. 890 adequately ensure that the imbalance provisions of the *pro forma* OATT will not result in service to intermittent resources that is unjust, unreasonable, or unduly discriminatory or preferential.

5. The Commission therefore withdraws the NOPR and terminates this rulemaking proceeding.

The Commission orders:

Docket No. RM05–10–000 is hereby terminated.

a conditional firm transmission product. These issues were not addressed in the NOPR, which was limited to the imbalance provisions of the *pro forma* OATT as they relate to intermittent resources.

⁵ See *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 FR 12266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007), *reh'g pending*.

⁶ Order No. 890 at P 663.

⁷ *Id.* The Commission also adopted a standard definition of intermittent resource that is identical to that proposed in this proceeding. See *Id.* at P 666.

By the Commission.

Kimberly D. Bose,

Secretary.

[FR Doc. E7-8236 Filed 4-30-07; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Diego 07-225]

RIN 1625-AA00

Safety Zone; Labor Day Fireworks, Lower Colorado River, Laughlin, NV

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a temporary safety zone on the navigable waters of the Lower Colorado River, Laughlin, NV, in support of a Labor Day fireworks display near the AVI Resort and Casino. The safety zone is necessary to provide for the safety of the crew, spectators, participants of the event, participating vessels and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: Comments and related material must reach the Coast Guard on or before July 31, 2007.

ADDRESSES: You may mail comments and related material to Commander (SPW), Attn: Waterways Management Division, Coast Guard Sector San Diego, 2710 N. Harbor Drive, San Diego, CA 92101-1028. Marine Events, Prevention Department, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Sector San Diego between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Chief Petty Officer Eric Carroll, Waterways Management, U.S. Coast Guard Sector San Diego, CA, at telephone (619) 278-7277.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you

do so, please include your name and address, identify the docket number for this rulemaking [COTP San Diego 07-225], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Sector San Diego at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes establishing a temporary safety zone on the navigable waters of the Lower Colorado River, Laughlin, NV, in support of a Labor Day fireworks show in the navigation channel of the Lower Colorado River, Laughlin, NV. The fireworks show is being sponsored by AVI Resort and Casino. The safety zone will be set at a 980-foot radius around the anchored firing barge. This temporary safety zone is necessary to provide for the safety of the show's crew, spectators, participants of the event, participating vessels, and other vessels and users of the waterway.

Discussion of Proposed Rule

The event involves one anchored barge, which will be used as a platform for launching of fireworks. The safety zone is required because the barge's planned firing location is in the navigation channel. This safety zone would be enforced from 8 p.m. through 9:30 p.m. on September 2, 2007.

The limits of this temporary safety zone include all areas within 980 feet of the firing location adjacent to the AVI Resort and Casino centered in the navigational channel between Laughlin Bridge and the northwest point of the AVI Resort and Casino Cove in position: 35[deg]00[min]45[sec] N, 114[deg]38[min]16[sec] W.

U.S. Coast Guard personnel would enforce this safety zone. Other Federal, State, or local agencies may assist the Coast Guard, including the Coast Guard Auxiliary. Vessels or persons violating

this rule would be subject to both criminal and civil penalties.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although the safety zone will restrict boating traffic within the navigable waters of the Lower Colorado River, Laughlin, NV, the effect of this regulation will not be significant as the safety zone will encompass only a small portion of the waterway and will be very short in duration. The entities most likely to be affected are pleasure craft engaged in recreational activities and sightseeing. As such, the Coast Guard expects the economic impact of this rule to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Lower Colorado River, Laughlin, NV, from 8 p.m. to 9:30 p.m. on September 2, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone only encompasses a small portion of the waterway, it is short in duration at a late hour when commercial traffic is low, and the Captain of the Port may authorize entry into the zone, if necessary.