

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2197-064]

Notice of Application for Non-Project Use of Project Lands and Soliciting Comments, Motions To Intervene, and Protests

July 29, 2003.

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

- a. *Application Type*: Non-Project Use of Project Lands.
- b. *Project No*: 2197-064.
- c. *Date Filed*: June 24, 2003.
- d. *Applicant*: Alcoa Power Generating Inc.
- e. *Name of Project*: Yadkin Project.
- f. *Location*: The project is located on the Yadkin/Pee Dee River in Montgomery, Stanley, Davidson, Rowan, and Davie Counties, North Carolina.
- g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791 (a) 825(r) and 799 and 801.
- h. *Applicant Contact*: Mr. David R. Poe, BeBoeuf, Lamb, Greene, & MacRae, LLP, Suite 1200, 1875 Connecticut Avenue, NW., Washington, DC 20009-5728, (202) 986-8039.
- i. *FERC Contact*: Any questions on this notice should be addressed to Ms. Shana High at (202) 502-8674, or e-mail address: shana.high@ferc.gov.
- j. Deadline for filing comments and or motions: August 29, 2003.

All documents (original and eight copies) should be filed with: Ms. Magalie Roman Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P-2197-064) on any comments or motions filed. 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 e-filings.

k. Description of Request:

Alcoa Power Generating Inc. (APGI) is seeking Commission authorization to issue a permit for non-project use of project lands and waters. The permit would be issued to Lake Forest of Badin Lakes, Inc. for the modification and use of an existing marina to accommodate a total of 51 watercraft within the project boundary on Narrows Reservoir, located in Davidson, Stanly, and Montgomery Counties.

l. Location of the Application: 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, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866)208-3676, or for TTY, contact (202)502-8659.

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, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene 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, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*: Federal, state, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03-19834 Filed 8-4-03; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL02-6-000]

Natural Gas Pipeline, Negotiated Rate Policies and Practices; Modification of Negotiated Rate Policy

July 25, 2003.

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, and Nora Mead Brownell.

1. This order addresses the Commission's Negotiated Rate Policy and concludes that several modifications of that policy are necessary in order to continue to permit the flexible, efficient pricing of pipeline capacity in a transparent manner, while ensuring the mitigation of market power.

Background

2. In 1996, the Commission issued its Policy Statement concerning negotiated rates.¹ In summary, this policy, as modified by Order No. 637,² permitted interstate pipelines under part 284 of the Commission's regulations to negotiate rates with a shipper that vary from the otherwise applicable cost of service pipeline tariff, subject to certain limitations, such as the Commission's prohibition against pipelines negotiating terms and conditions of service.³ Moreover, under the Commission's

¹ The Commission's current policies were originally established in, *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines, Regulation of Negotiated Transportation Services, Statements of Policy and Comments*, 74 FERC ¶ 61,076 (1996), *order on clarification*, 74 FERC ¶ 61,194 (1996), *order on reh'g*, 75 FERC ¶ 61,024 (1996).

² Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, FERC Stats. & Regs. Regulations Preambles (July 1996–December 2000) ¶ 31,091 at 61,343 (2000) (Order No. 637); *order on rehearing*, Order No. 637–A, FERC Stats. & Regs. Regulations Preambles (July 1996–December 2000) ¶ 31,099 at 31,648 (2000) (Order No. 637–A); and Order No. 637–B, 92 FERC ¶ 61,062 (2000) (Order No. 637–B), *aff'd in part and remanded in part, Interstate Natural Gas Association of America v. FERC*, 285 F.3d 18 (DC Cir. Apr. 5, 2002), *Order on Remand*, 101 FERC ¶ 61,127 (2002).

³ The Commission has determined that negotiated terms and conditions of service include any provisions that result in a customer receiving a different quality of service than that provided other customers under the pipeline's tariff. Dominion Transmission, Inc., 93 FERC ¶ 61,177 (2000). The Commission will, however, permit the implementation of negotiations resulting in deviations from the pipeline's form of service agreement, so long as such changes do not change the conditions under which service is provided and do not present an undue risk of undue discrimination. Columbia Gas Transmission Corp., 97 FERC ¶ 61,221 at 62,001–02 (2001).