

## DEPARTMENT OF ENERGY

Federal Energy Regulatory  
CommissionSupplemental Notice of Agenda for  
Technical Conference

June 3, 2004.

**Market-Based Rates For Public Utilities, AEP Power Marketing, Inc., AEP Service Corporation, CSW Power Marketing, Inc., CSW Energy Services, Inc., and Central and South West Services, Inc. (Not consolidated), Entergy Services, Inc., Southern Company Energy Marketing L.P., Conference on Supply Margin Assessment [Docket Nos. RM04-7-000, ER96-2495-016, ER96-2495-017, ER97-4143-004, ER97-4143-005, ER97-1238-011, ER97-1238-012, ER98-2075-010, ER98-2075-011, ER98-542-006, ER98-542-007, ER91-569-018, ER91-569-019, ER97-4166-010, ER97-4166-011, and PL02-8-000];**

1. The attachment to this supplemental notice provides additional information concerning the technical conference to discuss issues associated with the rulemaking proceeding on market-based rates that is scheduled for June 9, 2004, from 9:30 a.m. to 4:30 p.m. (e.s.t.) in the Commission's Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. All interested persons are invited to attend. Microphones will be available to enable those in the audience to participate in the discussion as issues arise. Members of the Commission will participate in the conference. While the Commission does not intend the conference discussion to include the merits of any issues pending on rehearing in the *AEP Power Marketing, Inc., et al.* proceeding in Docket No. ER96-2495-016, *et al.*, we have included those docket numbers out of an abundance of caution since the issues in the conference may overlap with issues in the rehearing dockets.

2. The conference will be transcribed. Those interested in acquiring the transcript should contact Ace Reporters at 202-347-3700 or 800-336-6646. Transcripts will be placed in the public record ten days after the Commission receives the transcripts. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, by phone or via satellite. Persons interested in receiving the broadcast, or who need information on making arrangements, should contact David Reininger or Julia Morelli at Capitol Connection (703-

993-3100) as soon as possible or visit the Capitol Connection Web site at <http://www.capitolconnection.org> and click on "FERC."

3. For more information about the conference, please contact Mary Beth Tighe at 202-502-6452 or [mary.beth.tighe@ferc.gov](mailto:mary.beth.tighe@ferc.gov).

**Magalie R. Salas,**  
*Secretary.*

**Market-Based Rates for Public Utilities  
Technical Conference, June 9, 2004, 9:30  
a.m.-4:30 p.m.**

*Agenda*

For many years the Commission has conducted the following four-part test to determine whether an applicant should be granted market-based rate authority: (1) Whether the applicant has generation market power; (2) whether the applicant has transmission market power, (2) whether the applicant can erect barriers to entry, and (3) whether there are concerns involving the applicant that relate to affiliate abuse and/or reciprocal dealing. The Commission recently initiated a rulemaking proceeding with respect to the adequacy of the current four-prong analysis and whether and how it should be modified to assure that electric market-based rates are just and reasonable under the Federal Power Act. The public technical conference that is the subject of this notice is the first step in this rulemaking proceeding. The purpose of this conference will be to frame the issues that will comprise the rulemaking proceeding, including a discussion of how all four parts of the current test interrelate, as well as what other factors the Commission should consider in granting market-based rate authorizations.

Panelists will each be asked to address issues among the following in an overview prepared statement, which will be followed by questions and general discussion:

1. To what extent, if any, does the Commission's current four-part test need to be revised, consolidated or expanded? Are there other factors the Commission should consider in granting market-based rate authorizations?
2. Should the interim generation market power screens that were adopted in the *AEP Order*<sup>1</sup> be retained over the long-term?
3. How do each of the four parts of the test relate to the other parts? Should the Commission's review of generation market power and transmission market power be more integrated than it is currently? How do these two factors interrelate? Should the Commission's analysis explicitly address vertical market power issues?
4. Should the Commission adopt a regional approach to assessing market power wherein all jurisdictional entities selling at wholesale in a particular region are reviewed for authorization to sell at market-based rates simultaneously, rather than the current applicant-by-applicant approach? If we adopted such an approach, how should we address the associated data and procedural/

<sup>1</sup> *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 (2004) (*AEP Order*).

transition issues that would be needed to implement such an approach?

5. Should there be new Commission regulations promulgated expressly for electric market-based rate filings? If so, in what areas are such regulations specifically needed?

6. Transmission specific issues:

a. How should we calculate transmission access to the market?

b. Are the current rights under the Order No. 888 transmission tariffs sufficient to ensure access to competitive markets?

c. Did Order No. 888 eliminate the potential for exercise of transmission market power? If not, how can transmission market power be exercised under the Open Access Transmission Tariff (OATT)? If Order No. 888 did not eliminate the potential for expansion of transmission market power, what policies are likely to do so? How should incentives factor into the analysis?

d. Is transmission market power a more serious concern than generation market power?

e. How can transmission market power be mitigated?

f. What is the best method to identify instances where market power is being exercised over transmission?

g. Should a public utility with transmission market power be eligible for market-based rate authorization?

7. Entry specific issues:

a. As part of the Commission's review of barriers to entry, should we examine the planning and expansion process with respect to generation siting? If so, how should that be done?

b. Who should be able to nominate sites for planning purposes?

c. What elements should go into the planning process?

d. What actions, if any, should be taken if barriers to entry exist that are not caused by any one entity?

e. What is the role of merchant transmission entry in reducing market power?

8. Affiliate Issues:

a. Should the Commission adopt different approaches to affiliate transactions than it currently does?

b. How should the history of affiliate violations factor into the analysis?

c. In general, are rules or proper incentives best for market efficiency?

d. What are the benefits and detriments that affiliate transactions bring to the market or to customers?

e. Do our affiliate rules hinder gains from economies of scope?

f. Is there an efficiency rationale for affiliate transactions given our behavioral rules?

g. Should any revisions to the current code of conduct be made and if so, what?

9. Are there certain entities that should not be granted market-based rate authority (*e.g.*, trading platforms or banks that loan money to potential energy-related competitors)? If so, why?

10. Should there be revisions to how market-based rates associated with ancillary services outside RTOs are currently authorized? If so, in what way?

## Panel I

9:30 a.m.–12 p.m.

(Generation Market Power, Transmission Market Power, Vertical Market Power and Barriers to Entry)

David DeRamus, Partner, Bates White. Mark Hegedus, of counsel, Spiegel & McDiarmid, on behalf of American Public Power Association.

Paul Bonavia, President of Commercial Enterprises for Xcel Energy. Robert Weishaar, Partner, McNeese, Wallace & Nurick, on behalf of industrial customers. Mathew Morey, Senior Consultant, Lauritsr.Christensen Associates, on behalf of National Rural Electric Cooperative Association.

Michael Wroblewski, Federal Trade Commission.

## Panel II

1:30 p.m.–4:30 p.m.

(Affiliate Abuse, Other Factors the Commission Should Consider in Granting Market-Based Rates, Other Issues (Substantive and Procedural) That Should be Addressed in the Rulemaking)

Julie Simon, Vice President of Policy, Electric Power Supply Association.

Fred Bryant, General Counsel for Florida Municipal Power Agency, on behalf of Transmission Access Policy Study (TAPS) Group.

Gerald Norlander, Chairman of the Electricity Committee of the National Association of State Utility Consumer Advocates.

Diana Moss, Vice President and Senior Research Fellow, American Antitrust Institute.

[FR Doc. E4–1293 Filed 6–9–04; 8:45 am]

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

[Docket Nos. PL04–9–000, EC02–113–000, EC02–113–001, EC03–53–000, and EC03–131–000]

**Conference on Acquisition and Disposition of Merchant Generation Assets by Public Utilities; Cinergy Services, Inc.; Ameren Energy Generating Company and Union Electric Company d/b/a; AmerenUE; Oklahoma Gas and Electric Company NRG McClain LLC; Supplemental Notice of Agenda for Technical Conference**

June 4, 2004.

1. The attachment to this supplemental notice provides additional information concerning the June 10, 2004, technical conference to discuss issues associated with public utilities' acquisition and disposition of merchant generation assets, including the implications for the competitive landscape in general and for a region's

wholesale competition in particular. (See May 11, 2004, Notice of Technical Conference.) While the Commission does not intend the conference discussion to include the merits of any issues pending before the Commission, we have included the docket numbers of contested pending section 203 cases out of an abundance of caution since issues in the conference may overlap with issues in these cases. The conference will begin at 1 p.m. (e.s.t.) and will conclude at approximately 4 p.m. and will be convened in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. Members of the Commission will attend the conference. All interested persons are invited to attend. Microphones will be available to enable those in the audience to participate in the discussion as issues arise.

2. The conference will be transcribed. Those interested in acquiring the transcript should contact Ace Reporters at 202–347–3700 or 800–336–6646. Transcripts will be placed in the public record 10 days after the Commission receives the transcripts. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, by phone or via satellite. Persons interested in receiving the broadcast, or who need information on making arrangements, should contact David Reininger or Julia Morelli at Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at <http://www.capitolconnection.org> and click on "FERC."

3. For more information about the conference, please contact David Hunger at 202–502–8148 or [David.Hunger@ferc.gov](mailto:David.Hunger@ferc.gov).

Linda Mitry,  
*Acting Secretary.*

**Conference on Public Utilities' Acquisition and Disposition of Merchant Generation Assets, June 10, 2004, 1 p.m.–4 p.m.**

## Agenda

Panelists will each be asked to address issues among the following in a five minute overview prepared statement, which will be followed by questions and general discussion:

- Trends in acquisitions of generation facilities owned by independent power producers (IPPs) and affiliated power producers (APPs); characteristics of sellers, buyers and assets and the roles of financial players; who is selling to whom and what is the role of banks and other financial institutions.
- Changing pattern of generation acquisitions by vertically-integrated utilities and their APPs over the past 15 years.

- Competitive effects of vertically integrated utilities acquiring IPP generation assets in short-run and long-run markets.

- Competitive effects of vertically integrated utilities acquiring APP generation assets in short-run and long-run markets; the potential for affiliate abuse; validity of safety net concerns.

- Whether or how the evaluation of the competitive harm under current section 203 review standards (Merger Policy Statement and Order No. 642) and policy needs to be changed to take account of competitive effects of acquisitions of IPPs and APPs.

- Whether the Commission should require an Edgar type standard of review for section 203 affiliate acquisitions.

- Should the Commission consider the effect of buyers' market power (monopsony power) in its review of generation acquisitions? If so, how should it analyze the effect on competition? Does economic dispatch address horizontal market power, vertical market power and/or monopsony power?

- What are the remedies? In particular, can a competitive solicitation prevent harm due to affiliate acquisitions?

Panel I: 1 p.m.–2:15 p.m.

John Hilke, Federal Trade Commission.

Steve Daniel, GDS Associates.

Pete Delaney, Oklahoma Gas and Electric Company.

State Commissioner—TBA.

Peter Kind, CitiGroup.

Break: 2:15 p.m.–2:30 p.m.

Panel II: 2:30 p.m.–3:45 p.m.

David DeRamus, Partner, Bates White.

Mark Huston, Constellation Generation.

Jone-Lin Wang, Cambridge Energy

Research Associates.

Mark Cooper, Consumer Federation of America.

Diana Moss, American Antitrust Institute.

Marji Philips, PSE&G.

Wrap-up: 3:45 p.m.–4 p.m.

[FR Doc. E4–1319 Filed 6–9–04; 8:45 am]

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

[Project No. 1893–042]

**Public Service Company of New Hampshire; Notice of Site Visit, Scoping Meetings and Soliciting Scoping Comments**

June 3, 2004.

a. *Type of Application:* New major license.

b. *Project No.:* P–1893–042.

c. *Date filed:* December 30, 2003.

d. *Applicant:* Public Service Company of New Hampshire (PSNH).

e. *Name of Project:* Merrimack River Project.

f. *Location:* On the Merrimack River, in Merrimack and Hillsborough