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Dated: April 21, 2011.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2011-10153 Filed 4-26-11; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11-3376-000]

North Hurlburt Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of North Hurlburt Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest 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). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 10, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: April 20, 2011.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2011-10061 Filed 4-26-11; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

Application of the Energy Planning and Management Program Power Marketing Initiative to the Boulder Canyon Project

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Notice of Decision and Notice of Proposal.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), will apply the Energy Planning and Management Program (Program) Power Marketing Initiative (PMI), as modified in this notice, to the Boulder Canyon Project (BCP), as proposed in a **Federal Register** notice (FRN) published on November 20, 2009. As a result, Western will extend a major percentage of the marketable capacity and energy to existing BCP customers. The remaining marketable resource shall form a resource pool that shall be marketed by Western to eligible customers by means of a public process. Western has determined that all BCP electric service contracts resulting from this effort shall have a term of thirty (30) years commencing October 1, 2017.

Western is also making new proposals relative to the BCP remarketing effort including marketable capacity and energy, a resource pool percentage, and excess energy provisions, as described in this notice. Western is accepting public comments on these proposals. All comments previously submitted in response to Western's November 20, 2009, notice will be considered in this

process and are not required to be resubmitted.

DATES: Western's decisions as described in this notice will become effective upon May 27, 2011.

The comment period for these proposals begins today and ends June 16, 2011. Western will hold a public information forum and a public comment forum on the proposals contained in this FRN. The public information forum will be held on May 25, 2011, 10 a.m., MST, in Phoenix, Arizona. The public comment forum will be held on May 25, 2011, 1 p.m., MST, in Phoenix, Arizona.

Western will accept written comments on or before June 16, 2011. Western reserves the right to not consider any comments received after this date.

ADDRESSES: Comments may be submitted to: Mr. Darrick Moe, Western Area Power Administration, Desert Southwest Regional Manager, P.O. Box 6457, Phoenix, AZ 85005-6457. Comments may also be faxed to (602) 605-2490 or e-mailed to Post2017BCP@wapa.gov. The public information and comment forum location will be the Sheraton Crescent Hotel, 2620 West Dunlap Avenue, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Simonton, Public Utilities Specialist, Desert Southwest Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005, telephone (602) 605-2675, e-mail Post2017BCP@wapa.gov. Information regarding Western's BCP Post 2017 remarketing efforts, the Program, and the Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Conformed Criteria) published in the **Federal Register** (49 FR 50582) on December 28, 1984, are available at <http://www.wapa.gov/dsw/pwrmkt>.

SUPPLEMENTARY INFORMATION:

Authorities: Western markets the BCP power resources under the Department of Energy Organization Act (42 U.S.C. 7101-7352); and the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by later acts; and other acts that apply specifically to BCP, particularly section 5 of the Boulder Canyon Project Act of 1928 (45 Stat. 1057, as amended, 43 U.S.C. 617 *et seq.*).

Background: Existing BCP electric service contracts are set to expire on September 30, 2017. On November 20, 2009 (74 FR 60256), Western published its proposals: (1) To apply the Program's PMI to the BCP; (2) to market 2,044 megawatts (MW) of contingent capacity

with an associated 4,116,000 megawatt-hours (MWh) of annual firm energy from the BCP; (3) to extend 100 percent of the existing contractors' contingent capacity allocations, totaling 1,951 MW, and 95 percent of the proposed marketable firm energy, totaling 3,910,200 MWh annually to the existing contractors based proportionally upon their existing allocations of marketed annual firm energy and to create a single, one-time resource pool consisting of 93 MW of contingent capacity with an associated 205,800 MWh of annual firm energy; and, (4) that electric service contracts resulting from this effort will have a term of 30 years commencing on October 1, 2017.

Public information and comment forums were held in Las Vegas, Nevada; Phoenix, Arizona; and Ontario, California. Western received comments from existing power contractors, Native American tribes, electric cooperatives, municipalities, and other potential contractors. Transcripts of the public information and comment forums, as well as all the comments received, may be viewed on Western's website at <http://www.wapa.gov/dsw/pwrmtkt>.

In an April 16, 2010, **Federal Register** Notice (75 FR 19966), Western extended the comment period of the November 20, 2009, FRN from January 29, 2010, to September 30, 2010. This extension provided Western additional time to examine the issues raised in the comments it received, and allowed interested parties additional opportunity to consult with Western and comment on the proposals.

Decision: Based on comments received and a review of available resources, Western will: (1) Apply the PMI, as modified in this notice, to the Boulder Canyon Project remarketing effort including the establishment of a resource pool and, (2) establish a term of 30 years for all BCP electric service contracts beginning October 1, 2017. Western presents further proposals in the Proposals section of this FRN.

Comments and Discussion

Western received a significant number of comments on Western's proposals during the comment period. Western reviewed and considered all comments received. This section summarizes and responds to the comments received on the applicability of the PMI to BCP, the length of the contract term, and the other topics appropriate to the proposals. All written comments and transcripts from the public comment forums are available on Western's website at <http://www.wapa.gov/dsw/pwrmtkt>.

Comment: Several comments were received requesting Western to suspend or delay the administrative remarketing process in order to either ensure all tribes in the BCP service area have sufficient time to become familiar with the effort or to provide pending legislation an opportunity to be enacted by Congress in the 111th congressional session.

Response: Based upon comments received, Western extended the comment period of the November 20, 2009, FRN from January 29, 2010, to September 30, 2010. In that time, Western identified 59 Federally recognized Native American tribes in the BCP marketing area and sent letters to each tribe notifying them of the BCP remarketing effort and extending an opportunity to consult with Western regarding the tribes' potential interests and participation in the public process.

To date, the legislative efforts to amend the Hoover Power Plant Act of 1984 (Hoover Act) (43 U.S.C. 619a) to make specific allocations of BCP power after September 30, 2017, have not come to fruition. Western acknowledges future legislation is possible, but also notes that Western has a statutory obligation to market BCP power pursuant to section 5 of the Boulder Canyon Project Act (Project Act) (43 U.S.C. 617d) in conjunction with section 302 of the Department of Energy Organization Act of 1977 (42 U.S.C. 7152). Therefore, Western will proceed to fulfill its marketing responsibilities related to BCP power through a public administrative process under current statutory authority.

Comment: Current legal authority does not preclude the application of the PMI to the BCP and Western has applied this protocol to other Federal power projects since its implementation in 1995. Western should continue with its proposal to apply the PMI to the BCP for this remarketing effort.

Response: Western agrees with this comment. The PMI was developed by Western through a public process and has been applied to other Federal projects as an appropriate means of balancing existing contractors' resource stability while also encouraging the widespread public use of the Federal generation. Western believes it is appropriate to apply the PMI, as modified herein, to the BCP at this time.

Comment: Comments were received questioning Western's authority under current law to apply the PMI to the BCP. Unlike other projects where Western has applied its PMI, the allocation of Hoover power has been the sole province of Congress. Western should explain its

legal theories that may support the application of the PMI.

Response: Hoover power was originally allocated by the Secretary of Interior by regulation and administrative action and was not directly determined through legislation until the Hoover Act. To date legislative proposals to extend the specific allocations in the Hoover Act have not been enacted. Moreover, section 5 of the Project Act and the Department of Energy Organization Act of 1977 authorizes Western to establish and apply regulations governing BCP allocations, including the application of the PMI and the creation of a resource pool. Application of the PMI to the BCP expressly protects and reserves a major portion of the existing contractors' allocations while also providing potential contractors an opportunity to acquire an allocation. Western believes that application of the PMI has historically provided for a balancing of the needs of the existing contractors with those of prospective contractors. Therefore, it is consistent with the Hoover Act and appropriate for Western to apply the PMI to the BCP.

Comment: 43 U.S.C. section 617d(b) provides that holders of Hoover contracts shall be entitled to a renewal upon such terms and conditions as may be authorized or required under the then existing laws and regulations. This language provides Western express authority to apply its current regulations to the marketing of the BCP.

Response: Western agrees and is herein deciding on the application of the PMI in conformance with its existing regulations.

Comment: Section 18 of the Reclamation Project Act of 1939 (Reclamation Act) provided that "nothing in this Act shall be construed to amend the Boulder Canyon Project Act of 1928 (45 Stat. 1057), as amended." 43 U.S.C. 485j footnote. Reclamation law, including the preference provisions contained in 43 U.S.C. 485h, is not applicable to the BCP allocation process.

Response: Western's decision to apply the PMI means the majority of the resources will continue to be allocated to existing BCP customers. The criteria under which the resources in the resource pool will be allocated shall be determined in a subsequent public process. Western will comply with all applicable laws during that process.

Comment: Section 5 of the Project Act governs allocation of power from Hoover Dam. The first priority to that power goes in equal opportunity to the states of Arizona, California, and Nevada. Subsequently, the power may

be further allocated within the marketing area primarily pursuant to priorities developed by the Solicitor of the U.S. Department of the Interior in the 1930's.

Response: Section 5 of the Project Act (43 U.S.C. 617d(c)) provides that "the States of Arizona, California, and Nevada shall be given equal opportunity as * * * applicants" for BCP power. It does not require equal distribution of BCP power among the three states, as evidenced by the Hoover Act which did not reallocate BCP power in equal portions to Arizona, California, and Nevada.

Comment: Under section 5 (c) of the Project Act, Western lacks the statutory authority to withhold capacity and associated energy in order to create a resource pool.

Response: Section 5 specifically grants the Secretary broad discretion to allocate power in accordance with the public interest and this authority provides for the necessary administrative flexibility to reserve capacity and energy for the creation of a resource pool.

Comment: Consistent with current U.S. Department of Energy Native American policy, Western must maintain a government-to-government relationship with Federally-recognized Native American governments. Native American tribes should have the option to seek an allocation directly from Western.

Response: Western agrees with this comment and intends to accept applications from Federally-recognized tribes for consideration of a BCP allocation after an official call for applications has been made in the **Federal Register**.

Comment: Western should allocate all of the 2,074 MW of nameplate capacity of the BCP. The maximum dependable operating capacity should be marketed to the contractors who are paying for the continued operations and maintenance of the dam. If the lake conditions ever return to optimal, then the full capacity should be made available to those who have been paying for the full contract amounts but have not received it.

Response: Western has historically marketed the BCP capacity as contingent capacity. BCP contractors have always been delivered the capacity they have contracted for when the supporting generating units are available. Western has and will continue to deliver contracted contingent capacity to the extent it is available. As proposed, Western would market 2,044 MW of contingent capacity from the BCP. The remaining 30 MW would be used for project integration

and reliability purposes. The BCP contractors would not be responsible for the expenses associated with the 30 MW as determined by Western. Western will determine the final marketable contingent capacity after considering the public comments it receives resulting from this notice.

Comment: Many comments requested Western to allocate the existing contractual amount of 4,527,001 MWh of annual firm energy while another comment supported the proposed 4,116,000 MWh.

Response: Western typically seeks to market an amount of energy that is commensurate with that which Western deems to be reasonably attainable as projected in hydrologic studies. Western and the Bureau of Reclamation (Reclamation) reviewed recent hydrologic studies provided by Reclamation. Several analyses were performed on the projected output of the BCP over the proposed term. The study results yielded an estimated average generation of approximately 3,650,000 MWh annually. Western proposed 4,116,000 MWh after considering factors such as average energy projections, resource stability, and frequency of excess energy. Comments received were predominantly in favor of maintaining the existing 4,527,001 MWh of annual firm energy irrespective of projected generation or an alternate logic. Western anticipates that just as it is today, all energy generated will be delivered to the BCP contractors based on their respective allocations regardless of the specific amount of energy marketed. It is noted that in the case of the BCP, the level of marketable energy has an impact on the amount of excess energy that is achieved. Due to this excess energy impact, Western believes that the best course of action is to propose marketable energy, excess energy provisions, and a resource pool percentage in a coordinated fashion with all impacting variables simultaneously considered. Western will determine the final marketable energy after considering the public comments it receives resulting from this notice.

Comment: Some comments suggested a 30-year term for contract offers taking effect after September 30, 2017, while several others requested 50 years.

Response: Western considered 20-, 30-, 40-, and 50-year contract terms. While the PMI calls for 20 years, based upon comments received, a longer term would be preferred by existing and potential new customers. With the dynamic nature of the electric industry in the last few decades, Western

believes that a remarketing effort will be in order for less than 50 years to ensure that the most widespread use of the Federal generation is maintained. Therefore, Western will extend contract offers to existing and new contractors with the term of 30 years commencing October 1, 2017. Western anticipates that a 30-year term will allow sufficient resource planning horizons and added stability compared to a term less than 30 years, yet will also provide an allocation opportunity for future entities at an appropriate time.

Comment: Several comments requested that Western maintain the existing excess energy provisions consisting of Schedules A, B, and C as described in the Hoover Act and the Conformed Criteria. Contrary comments requested that all contractors should share in the allocation of excess energy in proportion to their respective energy allocation percentage. Another comment stated that Native American tribes and other new preference applicants should receive a first right of refusal to excess energy.

Response: Western considered all of these potential methods in creating the proposed excess energy provisions. Several impacting factors were identified and contemplated to derive what Western believes to be fair and equitable excess energy provisions. Western will determine the final excess energy provisions after considering the public comments it receives resulting from this notice.

Comment: The PMI should state specifically that contractors will be permitted to transact Hoover power, including ancillary services, with an Independent System Operator, including the California Independent System Operator (CAISO).

Response: Western is committed to working with the contractors and related entities to ensure BCP power, including the associated ancillary services, are able to be utilized in a suitable fashion.

Comment: Western should clarify in this initiative that contractors will obtain the same ancillary services such as ramping, regulation, and reserves that are presently provided for under the existing contracts.

Response: In Western's November 20, 2009, FRN, Western stated that "If by means of a public process, Western applies the PMI to the BCP, the current long-term contractors of the project would receive an extension of a major portion of the resources available to them at the time their contracts expire." While the capability to dynamically receive the BCP resource and these associated ancillary services is not

explicitly described here, it is currently Western's intent to continue to provide these capabilities to the existing and new BCP contractors into the next contract term.

Proposals: Western is making additional proposals and is seeking further comments on the amount of marketable contingent capacity and firm energy, the amount of marketable contingent capacity and firm energy to be extended to existing contractors, the size of the resource pool to be created, and excess energy provisions. Western proposes the following:

(1) To market 2,044 MW of contingent capacity with an associated 4,527,001 MWh of annual firm energy from the BCP; (2) to extend 100 percent of the existing contractors' contingent capacity allocations, totaling 1,951 MW, and 95 percent of the proposed marketable firm energy, totaling 4,300,651 MWh annually based proportionally upon their existing allocations of marketed annual firm energy; (3) to create a single, one-time resource pool consisting of 93 MW of contingent capacity with an associated 226,350 MWh of annual firm energy; and; (4) that excess energy provisions contain a first and second priority defined as:

First Priority: The Arizona Power Authority (APA) shall have a first priority right to delivery of excess energy, which is equal in each year of operation to 200,000 MWh; provided, however, that in the event excess energy in the amount of 200,000 MWh is not generated during any year of operation, APA shall accumulate a first right to delivery of excess energy subsequently generated in an amount not to exceed 600,000 MWh, inclusive of the current year's 200,000 MWh. The first right of delivery shall accrue at a rate of 200,000 MWh per year for each year excess energy in the amount of 200,000 MWh is not generated, less amounts of excess energy delivered.

Second Priority: Any remaining excess energy available after the first priority has been satisfied shall be allocated to each BCP contractor based on a proportionate share of its annual firm energy percentage allocation.

Western will consider all comments received pertaining to its proposals since the initiation of the public process when making its final decisions. Western will publish its final decisions and further address the comments received on these proposals in a separate **Federal Register** notice.

Regulatory Procedure Requirements

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Environmental Compliance

In accordance with the DOE National Environmental Policy Act Implementing

Procedures (10 CFR part 1021), Western has determined that these actions fit within class of action B4.1 Contracts/marketing plans/policies for excess electric power, in Appendix B to Subpart D to Part 1021—Categorical Exclusions Applicable to Specific Agency Actions.

Dated: April 19, 2011.

Timothy J. Meeks,

Administrator.

[FR Doc. 2011-10081 Filed 4-26-11; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2003-0004; FRL-8871-9]

Access to Confidential Business Information by Syracuse Research Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Syracuse Research Corporation (SRC) of North Syracuse, New York, to access information which has been submitted to EPA under sections 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data will occur no sooner than May 4, 2011.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Pamela Moseley, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-8956; fax number: (202) 564-8955; e-mail address: moseley.pamela@epa.gov.

For general information contact: The TSCA Hotline, ABVIGoodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; e-mail address: TSCAHotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this notice apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this

action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPPT-2003-0004. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at <http://www.regulations.gov>, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

II. What action is the Agency taking?

Under EPA contract number GS-00F-0019L, Order Number EP-G11H-00090, contractor SRC of 4225 Running Ridge Road, North Syracuse, NY and 2451 Crystal Drive, Suite 804, Arlington, VA will assist the Office of Pollution Prevention and Toxics (OPPT) by performing chemistry evaluation of New and Existing chemicals including the chemistry aspects of their manufacture, processing, use, potential new uses, and pollution prevention. These documents will be examined for information on chemical structures, manufacture, physical/chemical properties, production volume and other pertinent data used in the assessment of the potential effects of chemicals. In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number GS-00F-0019L, Order Number EP-G11H-00090, SRC will require access to CBI submitted to EPA under