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**Kimberly D. Bose,**  
Secretary.

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## DEPARTMENT OF ENERGY

### Southeastern Power Administration

#### Jim Woodruff Project

**AGENCY:** Southeastern Power Administration, DOE.

**ACTION:** Notice of extension of time for written comments.

**SUMMARY:** The period for submitting written comments on Southeastern's proposed rate adjustment is extended to June 26, 2009.

**DATES:** Written comments may be submitted until the close of business June 26, 2009.

**ADDRESSES:** Written comments should be submitted to: Kenneth E. Legg, Administrator, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635-6711.

**FOR FURTHER INFORMATION CONTACT:** Leon Jourolmon, Assistant Administrator, Finance and Marketing Division, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635-6711. (706) 213-3800.

**SUPPLEMENTARY INFORMATION:** On March 11, 2009, Southeastern published a Notice in the **Federal Register** (74 FR

10570) that proposed new rate schedules to replace the current wholesale power schedules for the Jim Woodruff Project for a 5-year period from September 20, 2009 to September 19, 2014. The Notice outlined a public comment process that included a public information and comment forum for the Jim Woodruff customers and interested parties, which was held in Tallahassee, FL, on April 23, 2009. The public information process also provided that additional written comments would be due to Southeastern on or before June 9, 2009. On May 19, 2009, the Jim Woodruff customers, through their representatives, requested an extension of the comment period from June 9, 2009 to close of business on June 26, 2009. The additional time is needed in order for the customers to review extensive materials and information provided and developed at and after the forum and to allow sufficient time for such necessary review and preparation of informed comments regarding the new proposed rates. Southeastern is granting the customers' request for an extension of time.

Dated: May 20, 2009.

**Kenneth E. Legg,**  
Administrator.

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. AD09-7-000]

#### Material Changes in Facts Underlying Waiver of Order No. 889 and Part 358 of the Commission's Regulations; Order Clarifying Requirement To Notify Commission of Material Changes in Facts and Allowing 45-Day Filing Period for Notifications

Issued May 21, 2009.

Before Commissioners: Jon Wellinghoff, Chairman; Suedeen G. Kelly, Marc Spitzer, and Philip D. Moeller

1. In Order No. 889,<sup>1</sup> the Commission directed all public utilities that own, control or operate facilities for transmitting energy in interstate commerce to provide certain types of information regarding their transmission operations on an Open Access Same-time Information System (OASIS). The Commission also established Standards

<sup>1</sup> *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996), *order on reh'g*, Order No. 889-A, FERC Stats & Regs. ¶ 31,049, *reh'g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

of Conduct requiring that personnel engaged in transmission system operations function independently from personnel engaged in marketing functions. In Order No. 889, the Commission stated that it would entertain requests for waiver of these requirements on a case-by-case basis, and, on a case-by-case basis has granted waivers for certain public utilities.<sup>2</sup> The Commission subsequently revised the Standards of Conduct in various proceedings, most recently in Order No. 717, but affirmed that public utilities may request a waiver of those requirements.<sup>3</sup> In Order No. 717, the Commission found that any entity that has previously received a full or partial waiver of prior versions of the Standards of Conduct may continue to rely on that waiver.

2. It has come to the Commission's attention that some utilities may continue to rely on these waivers even after they no longer qualify for them. The purpose of this order is to clarify that such reliance is inappropriate if there is a material change in the underlying facts on which the waiver was granted, and that the Commission must be notified when such a change occurs.

#### Background

3. In Order No. 889, the Commission acknowledged that it might be burdensome for certain small utilities to comply with the rules therein, and stated that utilities may seek a waiver of some or all of the requirements.<sup>4</sup> In subsequent orders outside of that rulemaking proceeding, the Commission established criteria for granting requests for waiver. The Commission held that waiver of Order No. 889 would be appropriate for a public utility if it: (1) Owns, operates, or controls only limited and discrete facilities; or (2) qualifies as a small public utility, unless it is a member of a tight power pool, or there are other circumstances that indicate a waiver is not justified.<sup>5</sup> To qualify as a small public utility, an applicant "must be a public utility that meets the Small Business Administration (SBA)

<sup>2</sup> See, e.g., *Black Creek Hydro, Inc.*, 77 FERC ¶ 61,232 (1996) (*Black Creek*).

<sup>3</sup> See *Standards of Conduct for Transmission Providers*, Order No. 717, 73 FR 63796 (Oct. 27, 2008), FERC Stats. & Regs. ¶ 31,280, at P 33 (2008), *reh'g pending*. The Standards of Conduct are currently codified in Part 358 of the Commission's regulations.

<sup>4</sup> Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,594.

<sup>5</sup> *Black Creek*, 77 FERC at 61,941; *Central Minnesota Municipal Power Agency*, 79 FERC ¶ 61,260, at 62,126-27 (1997) (*Central Minnesota*). See also Order No. 717, FERC Stats. & Regs. ¶ 31,280 at P 23.