

Fossil Energy Home Page at <http://www.fe.de.gov>. Upon reaching the Fossil Energy Home page, select "Electricity Regulation," and then "Pending Procedures" from the options menus.

Issued in Washington, DC, on September 28, 2001.

**Anthony J. Como,**

*Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.*

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**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

[Docket No. EA-250]

### Application to Export Electric Energy; PSEG Energy Resources & Trade; LLC

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of application.

**SUMMARY:** PSEG Energy Resources & Trade LLC (PSEG ER&T) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

**DATES:** Comments, protests or requests to intervene must be submitted on or before November 5, 2001.

**ADDRESSES:** Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export (FE-27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0350 (FAX 202-287-5736).

**FOR FURTHER INFORMATION CONTACT:** Rosalind Carter (Program Office) 202-586-7983 or Michael Skinker (Program Attorney) 202-586-2793.

**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On September 14, 2001, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from PSEG ER&T to transmit electric energy from the United States to Canada. PSEG ER&T is a wholly-owned subsidiary of Public Service Enterprise Group ("PSEG"). PSEG ER&T is a fully integrated marketing and trading organization that is active in the long-term and spot wholesale energy markets. The power to be exported by PSEG ER&T will be surplus to the needs of PSEG ER&T's native load and may be supplied by PSEG ER&T-owned

generation or purchased from electric utilities, power marketers, and federal power marketing agencies in the United States.

PSEG ER&T proposes to arrange for the delivery of electric energy to Canada over the existing international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizen Utilities, Eastern Maine Electric Cooperative, International Transmission Company, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company.

The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by PSEG ER&T, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

**Procedural Matters:** Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the PSEG ER&T application to export electric energy to Canada should be clearly marked with Docket EA-250. Additional copies are to be filed directly with Steven R. Teitelman, President, PSEG Energy Resources & Trade LLC, 80 Park Plaza, T21, Newark, NJ 07102 AND Thomas P. Thackston, Senior Attorney, PSEG Services Corporation, 80 Park Plaza, T5G, Newark, New Jersey 07102.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at <http://www.fe.de.gov>. Upon reaching the Fossil Energy Home page, select "Electricity

Regulation," and then "Pending Procedures" from the options menus.

Issued in Washington, DC, on September 28, 2001.

**Anthony J. Como,**

*Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. EF00-2012-000 and EF00-2012-001]

### United States Department of Energy—Bonneville Power Administration; Order Approving Rates on an Interim Basis and Providing Opportunity for Additional Comments

Issued September 28, 2001.

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

In this order, we approve the Bonneville Power Administration's (Bonneville) proposed wholesale power rates<sup>1</sup> on an interim basis, pending our full review for final approval. We also provide for an additional period of time for the parties to file comments. The proposed wholesale power rates will allow Bonneville to recover its costs and repay the U.S. Treasury for the Federal investment in the Federal Columbia River Power System.

### Background

On July 6, 2000, Bonneville filed a request for interim and final approval of its wholesale power rates in accordance with the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act)<sup>2</sup> and Subpart B of Part 300 of the Commission's regulations.<sup>3</sup>

On August 4, 2000, Bonneville filed a motion to stay the proceedings citing the unprecedented wholesale power price spikes in the west during the summer of 2000. As a result of the price spikes, Bonneville explained, preference

<sup>1</sup> The proposed wholesale power rates schedules that Bonneville seeks approval for the period of October 1, 2001 to September 30, 2006 include: PF-02 Priority Firm Power Rate, RL-02 Residential Load Firm Rate, NR-02 New Resource Firm Power Rate, IP-02 Industrial Firm Power Rate, NF-02 Nonfirm Energy Rate.

<sup>2</sup> Sections 7(a)(2) and 7(i)(6) of the Northwest Power Act, 16 U.S.C. §§ 839e(a)(2) and 839e(i)(6)(1994).

<sup>3</sup> 18 CFR Part 300 (2001).

power customers were expected to abandon their plans to seek out power supplies from the market and instead purchase significantly more power from Bonneville than originally anticipated. According to Bonneville, the combination of an unanticipated increase in load coupled with higher and more uncertain market prices greatly diminished the prospect that its original proposed wholesale power rates would recover its costs and repay the U.S. Treasury for the Federal investment in the Federal Columbia River Power System.

On June 29, 2001, Bonneville filed a supplemental wholesale power rate filing.<sup>4</sup> The supplemental wholesale power rate filing adjusts the General Rate Schedule Provisions by replacing the capped single Cost Recovery Adjustment Clause (CRAC) with a three-component CRAC. In addition, the Dividend Distribution Clause has been modified to trigger starting in the second year of the rate period, rather than in the first year.

In the June 29, 2001 filing, Bonneville requests interim and final approval of the wholesale power rates that were originally filed on July 6, 2000, as revised by the supplemental wholesale power rate adjustment. Bonneville seeks approval of its wholesale power rates for the rate period October 1, 2001, through September 30, 2006.

#### Notice of Filing and Interventions

Notice of Bonneville's July 6, 2000 wholesale power rate filing was published in the **Federal Register**, 65 Fed. Reg. 44,041 (2000), with comments, protests, or motions to intervene due on or before August 1, 2000. Notice of Bonneville's June 29, 2001 supplemental wholesale power rate adjustment filing was published in the **Federal Register**, 66 FR 37664 (2001), with comments, protests, or motions to intervene due on or before August 3, 2001.

Avista Energy, Inc., Avista Corporation, Industrial Customers of Northwest Utilities, Vanalco, Inc., Idaho Consumer-Owned Utilities Association, Public Power Council, Goldendale Aluminum Company, Northwest Aluminum Company, Reynolds Metals Company, Kaiser Aluminum & Chemical Corporation, Columbia Falls Aluminum Company, Atofina Chemicals, Inc., (collectively, the DSI's), Alcoa Inc., Market Access Coalition, Blue Ridge Environmental Defense League, Columbia River Inter-Tribal Fish Commission, Confederated Tribes of the Umatilla Indian Reservation,

Yakama Nation, Enron Power Marketing, Inc., Portland General Electric Company, Idaho Power Company filed timely motions to intervene, raising no substantive issues. The Oregon Public Utility Commission and Washington Utilities and Transportation Commission filed notices of intervention. PPL Montana, Upper Columbia United Tribes, Central Montana Electric Power Cooperative, Inc., Oregon Utility Resource Coordination Association, Shoshone-Bannock Tribes, and Springfield Utility Board, Northwest Requirements Utilities, filed motions to intervene out of time.

In addition, Industrial Customers of Northwest Utilities, Northwest Energy Coalition, Save Our Wild Salmon Coalition, City of Burbank, Puget Sound Energy, Inc., PacifiCorp, and Public Generating Pool (PGP) and the PNGC Group filed timely motions to intervene and protests. The DSI's filed an answer to PGP's and PNGC Group's protest.

#### Discussion

##### *Procedural Matters*

Under Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR § 385.214 (2001), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant the untimely, unopposed motions to intervene of PPL Montana, Upper Columbia United Tribes, Central Montana Electric Power Cooperative, Inc., Oregon Utility Resource Coordination Association, Shoshone-Bannock Tribes, and Springfield Utility Board, Northwest Requirements Utilities. Finally, we will deny the motion by the DSI's for leave to file an answer to a protest and an answer to an answer. We are not persuaded that good cause is present to depart from our general rule that such a pleading is prohibited.<sup>5</sup>

##### *Standard of Review*

Under the Northwest Power Act, the Commission's review of Bonneville's regional power and transmission rates is limited to determining whether Bonneville's proposed rates meet the three specific requirements of section 7(a)(2):

(1) They must be sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs;

(2) They must be based upon the Administrator's total system costs; and

(3) Insofar as transmission rates are concerned, they must equitably allocate the costs of the Federal transmission system between Federal and non-Federal power.<sup>6</sup>

Commission review of Bonneville's non-regional, nonfirm rates also is limited. Review is restricted to determining whether such rates meet the requirements of section 7(k) of the Northwest Power Act,<sup>7</sup> which requires that they comply with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act (Transmission System Act). Taken together, those statutes require Bonneville to design its non-regional, nonfirm rates:

(1) To recover the cost of generation and transmission of such electric energy, including the amortization of investments in the power projects within a reasonable period;

(2) To encourage the most widespread use of Bonneville power; and

(3) To provide the lowest possible rates to consumers consistent with sound business principles.

Unlike the Commission's statutory authority under the Federal Power Act, the Commission's authority under sections 7(a) and 7(k) of the Northwest Power Act does not include the power to modify the rates. The responsibility for developing rates in the first instance is vested with Bonneville's Administrator. The rates are then submitted to the Commission for approval or disapproval. In this regard, the Commission's role can be viewed as an appellate one: to affirm or remand the rates submitted to it for review.<sup>8</sup>

Moreover, review at this interim stage is further limited. In view of the volume and complexity of a Bonneville rate application, such as the one now before the Commission in this filing, and the limited period in advance of the requested effective date in which to review the application,<sup>9</sup> the Commission generally defers resolution of issues on the merits of Bonneville's application until the order on final confirmation. Thus, the proposed rates, if not patently deficient, generally are approved on an interim basis and the parties are afforded an additional

<sup>6</sup> 16 U.S.C. § 839e(a)(2)(1994). Bonneville also must comply with the financial, accounting, and ratemaking requirements in Department of Energy Order No. RA 6120.2.

<sup>7</sup> 16 U.S.C. § 839e(k)(1994).

<sup>8</sup> *E.G.*, United States Department of Energy—Bonneville Power Administration, 67 FERC ¶ 61,351 at 62,216–17 (1994); *see also, e.g.*, Aluminum Company of America v. Bonneville Power Administration, 903 F.2d 585, 592–93 (9th Cir. 1989), and cases cited therein.

<sup>9</sup> *See* 18 CFR § 300.10(a)(3)(ii)(2001).

<sup>4</sup> Docket No. EF00–2012–001.

<sup>5</sup> *See* 18 CFR § 385.213(a)(2)(2001).

opportunity in which to raise issues with regard to Bonneville's filing.<sup>10</sup>

#### *Interim Approval*

PGP and the PNGC Group request the Commission to make an early final determination of Bonneville's proposed rates and to reject the proposed rates because the rates are insufficient to assure repayment of the Federal investment. They also contend that Bonneville's proposed rates violate the Bonneville Project Act and the Northwest Power Act, which prohibit the subsidy of Direct Service Industrial customer rates by preference power customers.<sup>11</sup>

The Commission declines at this time to make an early final determination of Bonneville's proposed rates as requested by PGP and the PNGC Group. The Commission's preliminary review indicates that Bonneville's rate filings appear to meet the minimum threshold filing requirements of Part 300 of the Commission's regulations and the statutory standards. Because the Commission's preliminary review of Bonneville's submittals indicates that they do not contain any patent deficiencies, the proposed rates will be approved on an interim basis pending our full review for final approval. We note, as well, that no one will be harmed by this decision because interim approval allows Bonneville's rates to go into effect subject to refund with interest. The Commission may order refunds with interest if the Commission later determines in its final decision not to approve the rates.<sup>12</sup>

In addition, we will provide an additional period of time for the parties to file comments and reply comments on all issues related to final confirmation and approval of Bonneville's proposed rates. This will ensure that the record in this proceeding is complete and fully developed.

#### *The Commission orders:*

(A) PGP and the PNGC Group's request to reject Bonneville's request for interim approval of the proposed rates is hereby denied.

(B) Interim approval of Bonneville's proposed wholesale power rates is hereby granted, to become effective on October 1, 2001, subject to refund with interest as set forth in section 300.20(c) of the Commission's regulations, 18 CFR

§ 300.20(c) (2001), pending final action on either its approval or disapproval.

(C) Within thirty (30) days of the date of this order, all parties who wish to do so may file additional comments regarding final confirmation and approval of Bonneville's proposed rates. All parties who wish to do so may file reply comments within twenty (20) days thereafter.

(D) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 01-24888 Filed 10-3-01; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP01-444-000]

#### **Calypso Pipeline, Notice of Application**

September 28, 2001.

Take notice that on September 19, 2001, Calypso Pipeline, LLC (Calypso), 1400 Smith Street, Houston, Texas 77002, filed an application in the above-referenced docket number pursuant to section 3 of the Natural Gas Act (NGA) and Part 153 of the Commission's Rules and Regulations, and, in addition, Calypso requests, to the extent necessary, a Presidential Permit pursuant to 18 CFR 153.15-17 and Executive Order 10485, as amended by Executive Order 12038, and Secretary of Energy Delegation Order 0204-112 for the purpose of importing and transporting natural gas from a proposed interconnection at the U.S./Bahamian Exclusive Economic Zone (EEZ) boundary with a proposed Bahamian pipeline connected to a proposed LNG terminal located in Freeport, Grand Bahama Island to markets in Florida and other states. This application will be combined with the applications filed by Calypso under Docket Numbers CP01-409-000, *et al.* The application is on file with the Commission and open to public inspection. This filing may be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (please call (202) 208-2222 for assistance).

The description of the proposed facilities are described in the CP01-409-000, *et al.* application. For purposes of Section 3 of NGA, the EEZ boundary is considered a border where the proposed facilities will be

constructed. The facilities consist of 250 feet of 24-inch pipeline constructed on the seabed of the Atlantic Ocean. Calypso states that it will provide transportation service, and will not take title to gas being imported. Therefore, it states that the Department of Energy, Office of Fossil Energy import authorization is not required.

Any questions regarding the application be directed to Alice K. Weekley, Calypso Pipeline, LLC, 333 Clay Street, Suite 1800, Houston, Texas 77002, at (713) 646-7381, or at [alice.weekley@enron.com](mailto:alice.weekley@enron.com).

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before October 19, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings

<sup>10</sup> See, e.g., United States Department of Energy—Bonneville Power Administration, 64 FERC ¶ 61,375 at 63,606(1993); United States Department of Energy—Bonneville Power Administration, 40 FERC ¶ 61,351 at 62,059-60(1987).

<sup>11</sup> See Bonneville Project Act, 16 U.S.C. § 832c(a)(1994) and Northwest Power Act, 16 U.S.C. § 839c(a)(1994).

<sup>12</sup> 18 CFR § 300.20(c)(2001).