

purchasers or (ii) permit third parties to use but because of the discrete nature of such interconnection facilities have received waivers from the Commission of open access transmission requirements.<sup>20</sup> Vantage Wind represents that such waivers remain appropriate because the facts and circumstances upon which they were originally granted have not changed.

24. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.<sup>21</sup> The Commission requires a seller to provide a description of its ownership or control of, or affiliation with an entity that owns or controls, intrastate natural gas transportation, storage or distribution facilities; sites for generation capacity development; and physical coal supply sources and ownership of or control over who may access transportation of coal supplies (collectively, inputs to electric power production).<sup>22</sup> The Commission also requires sellers to make an affirmative statement that they have not erected barriers to entry into the relevant market and will not erect barriers to entry into the relevant market.<sup>23</sup> The Commission adopted a rebuttable presumption that the ownership or control of, or affiliation with any entity that owns or controls, inputs to electric power production does not allow a seller to raise entry barriers but will allow intervenors to demonstrate otherwise.<sup>24</sup>

25. With regard to other barriers to entry, Vantage Wind states that it does not, nor does Invenenergy Investment, Polsky Energy or their affiliates, own or control in the United States: (i) Intrastate natural gas transportation, storage or distribution facilities or companies that own or control such facilities, or (ii) coal resources or transportation facilities or companies that own or control such things. Moreover, Vantage Wind states that it and its affiliates do not own or control sites located within the Puget balancing authority area that could be used to impose barriers to market entry by other wholesale power suppliers. Vantage Wind states that it owns or has land

rights to the site for its generation facilities and that other affiliates of Invenenergy Investment own, or may acquire in the future, certain property rights in land for the potential development of generation in places within in the United States including the Puget balancing authority area.

26. Finally, consistent with Order No. 697, Vantage Wind affirmatively states that it and its affiliates have not erected barriers to entry and will not erect barriers to entry in the relevant geographic market.

27. Based on Vantage Wind's representations, we find that Vantage Wind satisfies the Commission's requirements for market-based rate authority regarding vertical market power.

#### *B. Reporting Requirements*

28. Consistent with the procedures that the Commission adopted in Order No. 2001, an entity with market-based rates must electronically file an Electric Quarterly Report (EQR) with the Commission containing: (1) A summary of the contractual terms and conditions in every effective service agreement for market-based power sales; and (2) transaction information for effective short-term (less than one year) and long-term (one year or longer) market-based power sales during the most recent calendar quarter.<sup>25</sup> Public utilities must file EQRs no later than 30 days after the end of the reporting quarter.<sup>26</sup>

29. Additionally, Vantage Wind must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.<sup>27</sup>

30. Vantage Wind must also file updated market power analyses for all

regions in which it is designated as a Category 2 seller in compliance with the regional reporting schedule adopted in Order No. 697.<sup>28</sup> The Commission reserves the right to require an updated market power analysis at any time.<sup>29</sup>

#### *The Commission orders:*

(A) Vantage Wind's updated market power analysis is hereby accepted for filing, as discussed in the body of this order.

(B) Vantage Wind is hereby directed to file an updated market analysis for all regions in which it is designated as a Category 2 seller in compliance with the regional reporting schedule adopted in Order No. 697.

(C) The Secretary is hereby directed to publish a copy of this order in the **Federal Register**.

Issued April 23, 2012.

By the Commission.

**Nathaniel J. Davis, Sr.,**  
*Deputy Secretary.*

[FR Doc. 2012-10085 Filed 4-25-12; 8:45 am]

**BILLING CODE 6717-01-P**

## **DEPARTMENT OF ENERGY**

### **Federal Energy Regulatory Commission**

**[Project No. 12778-004]**

#### **Fall Creek Hydro, LLC; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions**

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* 12778-004.

c. *Date filed:* February 28, 2011.

d. *Applicant:* Fall Creek Hydro, LLC.

e. *Name of Project:* Fall Creek Dam Hydroelectric Project.

f. *Location:* The proposed project would be constructed at the existing U.S. Army Corps of Engineer's (Corps) Fall Creek Dam located on Fall Creek near the towns of Springfield and Eugene in Lane County, Oregon. The project would occupy 6.53 acres of Federal lands managed by the Corps.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

<sup>28</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 882. See *Vantage Wind Energy, LLC*, Docket No. ER10-956-000, at 2 (May 26, 2010) (delegated letter order).

<sup>29</sup> *Id.* P 853.

<sup>20</sup> Vantage Wind December 20 Filing at 10 (citing *Grand Ridge Energy, LLC*, 128 FERC ¶ 61,134 (2009), *Hardee Power Partners Limited*, 125 FERC ¶ 61,036 (2008), *Wolverine Creek Goshen Interconnection, LLC*, Docket No. ER06-267-000 (Jan. 13, 2006) (delegated letter order); *Hardee Power Partners Limited*, 114 FERC ¶ 61,131 (2006)).

<sup>21</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 440.

<sup>22</sup> *Id.* P 447; Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176.

<sup>23</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

<sup>24</sup> *Id.* P 446.

<sup>25</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334 (2003). Attachments B and C of Order No. 2001 describe the required data sets for contractual and transaction information. Public utilities must submit EQRs to the Commission using the EQR Submission System Software, which may be downloaded from the Commission's Web site at <http://www.ferc.gov/docs-filing/eqr.asp>.

<sup>26</sup> The exact filing dates for these reports are prescribed in 18 CFR 35.10b (2011). Failure to file an EQR (without an appropriate request for extension), or failure to report an agreement in an EQR, may result in forfeiture of market-based rate authority, requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

<sup>27</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005); 18 CFR 35.42(a) (2011).

h. *Applicant Contact*: Brent L. Smith, Chief Operating Officer; Symbiotics LLC; 371 Upper Terrace, Suite 2, Bend, OR 97702; Telephone (541) 330-8779.

i. *FERC Contact*: Lee Emery, Telephone (202) 502-8379 and email [lee.emery@ferc.gov](mailto:lee.emery@ferc.gov).

j. *Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions*: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice. Motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at 1-866-208-3676, or for TTY, (202) 502-8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now is ready for environmental analysis.

l. The proposed project would utilize the existing Corps' Fall Creek Dam and Fall Creek Reservoir, and would consist of the following new facilities: (1) Three water inlet structures with a total capacity of 625 cubic feet per second, built on the upstream face of the dam drawing water from elevations 720, 765

and 800 mean sea level; (2) a 32-foot-long, 22-foot-wide valve control structure for the three water inlets; (3) an 8-foot-diameter, approximately 570-foot-long penstock grouted to the existing south side concrete outlet structure; (4) a 10-foot-high, 5.5-foot-wide penstock isolation gate located at the downstream end of the penstock and maintaining hydraulic pressure in the penstock; (5) two 8-foot-diameter bifurcations located approximately 70 feet upstream of the penstock isolation gate; (6) two 110-foot-long, 8-foot-diameter penstocks; (7) two Eicher screens, one per penstock; (8) a 48.5-foot-long, 44-foot-wide concrete fish screen enclosure; (9) a 26-foot-long penstock convergence and trifurcation section leading to two Francis and one Kaplan turbine-generating units with a total installed capacity of 10 megawatts (MW); (10) a 75-foot-long, 60-foot-wide concrete powerhouse; (11) a network of pipes supplying water to an existing Corps fish collection facility during powerhouse operation or shutdown; (12) an approximately 100-foot-long, 64-foot-wide concrete tailrace channel equipped with picket barrier to prevent fish from accessing the turbine runners; (13) a 2,850-foot-long fish bypass system starting at the Eicher screens and consisting of (a) two 1,430-foot-long by 24-inch-diameter pipes each with 24 outlets discharging into an approximately 1,420-foot-long, 24-inch-wide and 24-inch-deep "U" shaped concrete open channel return chute; and (b) an approximately 33-foot-long, 23-foot-wide fish evaluation station located approximately 370 feet upstream from where the return chute discharges back into Fall Creek; (14) a 442-foot-long, 12.5 kilovolt buried transmission line connecting the powerhouse to an existing overhead transmission line which is part of the local grid; and (15) appurtenant facilities. The project would occupy 6.53 acres of Federal lands owned and managed by the Corps. The average annual generation is estimated to be 21,220 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" 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. A copy is also available

for inspection and reproduction at the address in item h above.

Register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. 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, and 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.

All filings must (1) bear in all capital letters the title "PROTEST," "MOTION TO INTERVENE," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "PRELIMINARY TERMS AND CONDITIONS," or "PRELIMINARY FISHWAY PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. *Procedural Schedule*:

The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of recommendations, preliminary terms and conditions, and preliminary fishway prescriptions .....	June 2012.
Commission issues Draft EA .....	December 2012.

Milestone	Target date
Comments on Draft EA .....	January 2013.
Modified Terms and Conditions .....	March 2013.
Commission Issues Final EA .....	June 2013.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

q. A license applicant must file no later than 60 days following the date of issuance of the notice of acceptance and ready for environmental analysis provided for in 5.22: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

r. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Dated: April 19, 2012.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2012-10071 Filed 4-25-12; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

#### Filings Instituting Proceedings

*Docket Numbers:* RP12-604-000.  
*Applicants:* Columbia Gas Transmission, LLC.

*Description:* TCRA 2012 to be effective 6/1/2012.

*Filed Date:* 4/13/12.

*Accession Number:* 20120413-5068.

*Comments Due:* 5 p.m. ET 4/25/12.

*Docket Numbers:* RP12-605-000.

*Applicants:* Columbia Gas

Transmission, LLC.

*Description:* OTRA—April 2012 to be effective 6/1/2012.

*Filed Date:* 4/13/12.

*Accession Number:* 20120413-5120.

*Comments Due:* 5 p.m. ET 4/25/12.

*Docket Numbers:* RP12-606-000.

*Applicants:* El Paso Natural Gas Company.

*Description:* El Paso Natural Gas Company Request for Waiver Filing.

*Filed Date:* 4/16/12.

*Accession Number:* 20120416-5057.

*Comments Due:* 5 p.m. ET 4/30/12.

*Docket Numbers:* RP12-607-000.

*Applicants:* Anadarko Energy Services Company, Western Gas Resources Inc., Kerr McGee Energy Services Corporation, Kerr McGee (Nevada) LLC.

*Description:* Joint Petition of Kerr McGee Energy Services Corporation, *et al.* for Temporary Waivers of Capacity Release Regulations and Policies, & Request for Shortened Comment Period & Expedited Treatment.

*Filed Date:* 4/12/12.

*Accession Number:* 20120412-5237.

*Comments Due:* 5 p.m. ET 4/24/12.

*Docket Numbers:* RP12-608-000.

*Applicants:* Natural Gas Pipeline Company of America.

*Description:* Tenaska Gas Negotiated Rate to be effective 4/16/2012.

*Filed Date:* 4/16/12.

*Accession Number:* 20120416-5162.

*Comments Due:* 5 p.m. ET 4/30/12.

*Docket Numbers:* RP12-609-000.

*Applicants:* Texas Gas Transmission, LLC.

*Description:* Authorization for Sale of Excess Storage Inventory filing to be effective 5/17/2012.

*Filed Date:* 4/16/12.

*Accession Number:* 20120416-5175.

*Comments Due:* 5 p.m. ET 4/30/12.

*Docket Numbers:* RP12-610-000.

*Applicants:* Columbia Gas Transmission, LLC.

*Description:* Columbia Gas Transmission, LLC submits tariff filing per 154.204: Negotiated Rate Service Agreement—South Jersey to be effective 5/17/2012.

*Filed Date:* 4/17/12.

*Accession Number:* 20120417-5076.

*Comments Due:* 5 p.m. ET 4/30/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

#### Filings in Existing Proceedings

*Docket Numbers:* RP11-1566-009.

*Applicants:* Tennessee Gas Pipeline Company, LLC.

*Description:* Rate Case 2011 Refund Report to be effective N/A.

*Filed Date:* 4/13/12.

*Accession Number:* 20120413-5140.

*Comments Due:* 5 p.m. ET 4/25/12.

*Docket Numbers:* RP12-458-002.

*Applicants:* Eastern Shore Natural Gas Company.

*Description:* Docket No. RP12-458 Compliance Filing to be effective 4/13/2012.

*Filed Date:* 4/16/12.

*Accession Number:* 20120416-5146.

*Comments Due:* 5 p.m. ET 4/30/12.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: April 17, 2012.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2012-10037 Filed 4-25-12; 8:45 am]

**BILLING CODE 6717-01-P**