

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.

Comments, recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "eFiling" link.

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

l. *Description of Project:* The Indian River Project would consist of: (1) The existing 30-foot-high, 425-foot-long Russell dam with flashboards; (2) a 14.11 acre reservoir; (3) a rackhouse for intake of the reservoir flow; (4) two 7-foot-diameter, 60-foot-long penstocks; (5) a powerhouse containing two generating units with a combined capacity of 700 kW and an estimated average annual generation of 3.2 GWh; (6) a 60-foot-long tailrace; (7) a 400-foot-long transmission line; and (8) appurtenant facilities.

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 at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "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 submitting the filing; 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. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

You may also 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. *Procedural Schedule:* The Commission staff proposes to issue one Environmental Assessment (EA) rather than issuing a draft and final EA. Staff intends to allow 30 days for entities to comment on the EA, and will take into consideration all comments received on the EA before final action is taken on the exemption application. The application will be processed according to the schedule, but revisions to the schedule may be made as appropriate:

Action	Date
Notice availability of EA .....	Aug. 2005.
Ready for Commission Decision on Application.	Nov. 2005.

Magalie R. Salas,  
Secretary.

[FR Doc. E5-1636 Filed 4-7-05; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Application for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

March 31, 2005.

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

a. *Application Type:* Non-project use of project lands and waters.

b. *Project No.:* 2232-485.

c. *Date Filed:* March 8, 2005.

d. *Applicant:* Duke Power, a division of Duke Energy Corporation.

e. *Name of Project:* Catawba-Wateree Project.

f. *Location:* This project is located on the Catawba and Wateree Rivers, in nine counties in North Carolina (Burke, Alexander, McDowell, Iredell, Caldwell, Lincoln, Catawba, Gaston, and

Mecklenburg Counties) and five counties in South Carolina (York, Chester, Lancaster, Fairfield and Kershaw Counties). This project does not occupy any Tribal or Federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a), 825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Joe Hall, Lake Management Representative; Duke Energy Corporation; P.O. Box 1006; Charlotte, NC 28201-1006; (704) 382-8576.

i. *FERC Contact:* Any questions on this notice should be addressed to Brian Romanek at (202) 502-6175 or by e-mail: [Brian.Romanek@ferc.gov](mailto:Brian.Romanek@ferc.gov).

j. *Deadline for Filing Comments and or Motions:* April 29, 2005.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P-2232-485) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages e-filings.

k. *Description of Request:* Duke Power, licensee for the Catawba-Wateree Hydroelectric Project, has requested Commission authorization to lease to The Black Bear Development, Inc. 6.57 acres of project lands for a Commercial/Non-Residential Marina. The Black Bear Development is located on Lake James in McDowell County. The marina would consist of 14 cluster docks with one hundred and ninety eight (198) boat slips, one dry docking storage access ramp with a bulkhead, three fishing piers (one of which is designed for use by disabled persons), four boat slips for fueling (equipped with human waste pump-out equipment), and 2,505 linear feet of shoreline stabilization (rip rap).

l. *Location of the Application:* This filing is available for review at the Commission 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 at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—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, .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.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

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

[FR Doc. E5-1637 Filed 4-7-05; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. PL05-6-000]

#### Establishing Reference Prices for Mitigation in Markets Operated by Regional Transmission Organizations and Independent System Operators; Notice Inviting Comments on the Establishment and Use of Reference Prices

April 1, 2005.

The Commission invites all interested persons to file comments addressing the roles of Regional Transmission Organizations (RTOs), Independent System Operators (ISOs) or their market

monitors (or contractors) in establishing reference prices to mitigate bids in order to limit non-competitive results in wholesale electric markets. The comments may focus on particular geographic region(s) of the United States or upon energy markets in general. A Commission staff document, which is appended to this notice as Attachment A, provides general background on ways that reference levels are calculated and how they are used.

The Commission is particularly interested in comments that address the following questions for RTOs and ISOs that use the conduct and impact approach to mitigation:

1. In practice: (a) When are reference prices used; (b) by whom are they developed; (c) what can be their effect, if any, on the wholesale market-clearing price and wholesale rates for electric energy; and (d) how often do they affect market-clearing prices?

2. In what ways do reference prices in the wholesale market function like bid caps, and in what ways are they like formula rates?

3. Under what circumstances do RTOs, ISOs, their market monitors, or their consultants use discretion in setting reference prices? What is the nature of the discretion used? Is their discretion within the parameters prescribed in the RTO or ISO's Commission-approved, filed tariff? Is discretion necessary in determining reference prices? If so, under what circumstances is discretion necessary? Can reference prices be developed without discretion on the part of the RTO, ISO or market monitor?

a. If RTOs, ISOs, their market monitors, or their consultants exercise discretion within the parameters prescribed in the RTO or ISO's Commission-approved, filed tariff, is such discretion an impermissible delegation of the Commission's authority or is it a permissible implementation of a Commission-approved tariff? With respect to possible impermissible delegations of authority, does it make a difference if it is the RTO, ISO or an internal market monitor that exercises discretion within the parameters of a Commission-approved, filed tariff, or if it is an external market monitor or other consultant that exercises such discretion?

b. How often do RTOs, ISOs and their market monitors consult with individual market participants to determine the appropriate reference prices(s) for that market participant's unit(s)? How is the consultation process carried out? Is this consultation process appropriate?

c. How do RTOs, ISOs and their market monitors resolve disagreements with market participants about methods used to determine their individual reference prices, or about the data used to calculate their reference prices?

4. Is there a reason why reference prices, once set, would need to be adjusted quickly?

5. How often are reference prices set based on the market monitor or RTO/ISO's estimate of a unit's generating costs, compared to other methods of calculating reference prices?

6. To the extent that the RTO, ISO or market monitor may affect the market-clearing price at one or more locations and time intervals by determining reference prices, is there a better system that can be employed to mitigate bids?

a. Should some method other than reference prices within a conduct and impact approach to mitigation be used? If so, what method? Would this alternative method involve discretion on the part of the market monitor, ISO or RTO?

b. Reference prices could be developed by the market monitor, but submitted to the Commission for its approval. Should reference prices be set in that manner?

The Commission encourages electronic submission of comments in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the comment to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All filings in this docket are accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and will be 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](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern Time on May 2, 2005.

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

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