

3. The Commission received extensive comments on its proposed rule raising a variety of concerns, including the following: (1) The Commission's proposed assertion of jurisdiction over transmission used to provide retail service to native load customers infringed on state jurisdiction; (2) other specific features of the proposed rule also would infringe on state jurisdiction; (3) the transition process to the new proposed transmission service would not provide sufficient protection for existing customers; (4) the proposed rule was too prescriptive in substance and implementation and did not sufficiently accommodate regional differences; and (5) the proposed rule did not provide sufficient clarity on cost recovery for investment in new transmission facilities.

4. On April 28, 2003, in response to the comments it received on its proposed rule, the Commission issued a Wholesale Power Market Platform White Paper laying out a revised proposal for building a wholesale electric market. The Commission reiterated its overall goals, proposed a more flexible approach to regional needs and expressed an intent to focus on the formation of RTOs. The Commission recognized the need for additional changes to its proposed rule and indicated that: (1) It would not assert jurisdiction over the transmission rate component of bundled retail service; (2) nothing in the Final Rule would change state authority over resource adequacy requirements and regional transmission planning requirements; (3) regional state committees would determine how firm transmission rights should be allocated to current customers; (4) implementation would be tailored to each region and modifications would be allowed to benefit customers in each region; (5) each RTO would be required to have a clear transmission cost recovery policy outlined in its tariff; and (6) it would eliminate the proposed requirement that public utilities create or join an independent entity, but would require them to join an RTO or independent system operator (ISO).

5. While a number of entities expressed support for certain of the changes proposed by the Commission in its White Paper, many entities continued to oppose the Commission's fundamental goals. For example, several entities spoke out against any national one size fits all approach, even with the modifications set forth in the White Paper, while others expressed concern with the ever-escalating costs of RTOs. Still others preferred that the Commission take a more regional

approach that would allow markets to develop on a voluntary basis, instead of the mandatory approach to RTOs proposed by the Commission. A number of entities also expressed concern about the proposed regional state committees, including their concern that they would have to spread their scarce resources over a multitude of forums.

#### Discussion

6. Since issuance of the SMD NOPR, the electric industry has made significant progress in the development of voluntary RTOs/ISOs (e.g., Midwest Independent Transmission System Operator, Inc. and Southwest Power Pool, Inc.). This has allowed interested parties, through region-specific proceedings, to shape the development of independent entities to reflect the needs of each particular region. The Commission has also indicated that it intends to consider revisions to the Order No. 888 pro forma Open Access Transmission Tariff to reflect the electric utility industry's and the Commission's experience with open access transmission over the last decade.

7. Given the continuing development of voluntary RTOs and ISOs and the Commission's expressed intent to look into revisions to the Order No. 888 pro forma tariff in a separate proceeding, we have concluded that the SMD NOPR has been overtaken by events. Accordingly, we will exercise our discretion to terminate this proceeding.

#### *The Commission orders:*

Docket No. RM01-12-000 is hereby terminated.

By the Commission.

**Linda Mitry,**

*Deputy Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 6662-006]

#### City of St. George; Notice of Availability of Environmental Assessment

July 19, 2005.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Project's staff has prepared an Environmental Assessment (EA) for the

City of St. George's application requesting Commission approval to surrender the exemption for the Lower Gunlock Hydroelectric Project, FERC No. 6662. The project is located on the Santa Clara River in Washington County, Utah. The project does not occupy any tribal or Federal lands.

The EA concludes the staff's analysis of the potential environmental impacts of the proposal and concludes that approval of the surrender would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is attached to a Commission Order entitled *Order Modifying and Accepting Surrender of Exemption* issued on July 15, 2005 (112 FERC ¶ 62,034) which is available for review at the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number (Prefaced by P-) and excluding the last three digits, in the docket number field to access the document. For assistance please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free 866-208-3676, or, for TTY, contact (202) 502-8659.

For further information, contact Kate DeBragga at (202) 502-8961.

**Magalie R. Salas,**

*Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP05-361-000]

#### Freeport LNG Development, L.P.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Freeport LNG Phase II Project and Request for Comments on Environmental Issues

July 19, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of Freeport LNG Development, L.P.'s (Freeport LNG) proposal to site, construct, and operate the following additional facilities at its liquefied natural gas (LNG) import terminal on Quintana Island, Brazoria County, Texas: (1) An additional marine berthing dock and associated unloading facilities for LNG ships, (2) new and expanded vaporization systems; and (3) an additional LNG storage tank.