

resources on a long-term firm basis. If a customer cannot self-supply or purchase this service from another provider, Western may obtain the reserves on the open market for a charge that covers the cost of procuring the service. The transmission customer will be responsible for the transmission service to get these reserves to their destination.

Under Schedule DSW-SUR2, Operating Reserves-Supplemental Reserve Service is not available from DSWR resources on a long-term firm basis. If a customer cannot self-supply or purchase this service from another provider, at the customer's request, Western may obtain the reserves on the open market for a charge that covers the cost of procuring the service. The transmission customer will be responsible for the transmission service to get these reserves to their destination. Spinning and Supplemental Reserve Services were handled in the same way in the previous rate methodology as in this proposal.

#### Legal Authority

Since the proposed rates constitute a major rate adjustment as defined by 10 CFR part 903, Western will hold both a public information forum and a public comment forum. After review of public comments, and possible amendments or adjustments, Western will recommend the Deputy Secretary of Energy approve the proposed rates on an interim basis.

Western is establishing network service for the PDP and the Intertie and ancillary services for the PDP, Intertie, CAP, and the part of the CRSP located in the WALC BATO under the Department of Energy Organization Act (42 U.S.C. 7152); the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts that specifically apply to the projects involved.

By Delegation Order No. 00-037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Commission. Existing Department of Energy (DOE) procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

#### Availability of Information

All brochures, studies, comments, letters, memorandums, or other documents that Western initiates or uses to develop the proposed rates are available for inspection and copying at the Desert Southwest Regional Office, 615 South 43rd Avenue, Phoenix, Arizona. Many of these documents and supporting information are also available on DSWR's external Web site <http://www.wapa.gov/dsw/dsw.htm>.

#### Regulatory Procedure Requirements

##### *Regulatory Flexibility Analysis*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities, and there is a legal requirement to issue a general notice of proposed rulemaking. This action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

##### *Environmental Compliance*

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations (40 CFR parts 1500-1508); and DOE NEPA Regulations (10 CFR part 1021), Western has determined this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

##### *Determination Under Executive Order 12866*

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

##### *Small Business Regulatory Enforcement Fairness Act*

Western has determined that this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: September 30, 2005.

**Michael S. Hacsakaylo**,  
Administrator.

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#### ENVIRONMENTAL PROTECTION AGENCY

[Petition IV-2002-1; FRL-7982-7]

#### Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Oglethorpe Power Company—Wansley Combined Cycle Energy Facility; Roodville (Heard County), GA

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final order denying petition to object to a state operating permit in response to remand.

**SUMMARY:** On September 15, 2005, the Administrator issued an Order Responding to Remand denying a petition to object to a state operating permit issued to Oglethorpe Power Company (Oglethorpe)—Wansley Combined Cycle Energy Facility (Block 8) located in Roodville, Heard County, Georgia, pursuant to title V of the Clean Air Act (the Act), 42 U.S.C. 7661-7661f. On February 4, 2002, Sierra Club had filed a petition seeking EPA's objection to the title V operating permit for Block 8 issued by the Georgia Environmental Protection Division (EPD). The Administrator denied the petition in an Order dated November 15, 2002. Pursuant to Section 502(b) of the Act, Sierra Club appealed to the U.S. Court of Appeals for the Eleventh Circuit (the Court), arguing that Oglethorpe was not entitled to a permit for Block 8 (in accordance with Georgia's Statewide Compliance Rule) because it owns part of another major stationary source that has been cited for non-compliance with the Act. On May 5, 2004, the Court granted Sierra Club's petition for review, vacated the November 12, 2002, Order, and remanded to EPA for further explanation of the manner in which the Georgia rule should be applied in cases of partial ownership. After considering the issues raised by the Court, the Order Responding to Remand reaches the same conclusion as EPA's original Order, but provides a more detailed explanation.

**ADDRESSES:** Copies of the Order Responding to Remand, the petition, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. The remanded final order is also available electronically at the following address: <http://www.epa.gov/region7/programs/artd/air/title5/petitiondb/petitions/>

*opcwansley\_decision2002(remanded).pdf.*

**FOR FURTHER INFORMATION CONTACT:** Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562-9115 or [hofmeister.art@epa.gov](mailto:hofmeister.art@epa.gov).

**SUPPLEMENTARY INFORMATION:** The Georgia Center for Law in the Public Interest originally submitted a petition on behalf of the Sierra Club (Petitioner) to the Administrator on February 4, 2002, requesting that EPA object to a state title V operating permit issued by the EPD to Oglethorpe. Other inconsistencies (with the Act) alleged by the Petitioner were: (1) That the permit failed to require a case-by-case maximum achievable control technology determination for the emissions of hazardous air pollutants; (2) that the permit failed to include adequate monitoring of carbon monoxide; (3) that the permit impermissibly limited the enforceability of a federal stack height provision; and (4) that the permit failed to include short-term best available control technology limits. EPA's responses to the above issues in the November 12, 2002, Order were upheld by the Court; therefore, sections IV.B. through IV.E. of the November 12, 2002, Order are incorporated by reference into the Order Responding to Remand.

Dated: October 5, 2005.

**J. I. Palmer, Jr.,**

*Regional Administrator, Region 4.*

[FR Doc. 05-20416 Filed 10-11-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[A-1-FRL-7982-5]

### Approval of Air Quality Implementation Plan Commitment to Submit Mid-Course Review; Massachusetts, New Hampshire and Rhode Island

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of commitment fulfillment.

**SUMMARY:** Notice is hereby given that the states of Massachusetts, New Hampshire and Rhode Island have fulfilled the enforceable commitment each state made to EPA to complete a mid-course review (MCR) assessing whether their respective nonattainment area was or was not making sufficient progress toward attainment of the one-hour ozone standard under the Clean Air Act (CAA). EPA has reviewed the MCR documents submitted by

Massachusetts, New Hampshire and Rhode Island and has determined that each state has adequately met its commitment to perform a MCR. EPA has sent a letter to each state approving their respective MCR as fulfilling the commitment made by each state in their 1-hour ozone attainment demonstration.

**ADDRESSES:** Copies of each state's MCR submittal, EPA's approval letters and EPA's technical support document (TSD) are available for public inspection during normal business hours (9 a.m. to 4 p.m.) at the following address: U.S. Environmental Protection Agency, Region 1 (New England), One Congress St., 11th Floor, Boston, Massachusetts, telephone (617) 918-1664, please telephone in advance before visiting.

**FOR FURTHER INFORMATION CONTACT:**

Richard P. Burkhart, Air Quality Planning, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. Phone: 617-918-1664, Fax: (617) 918-0664, E-mail: [burkhart.richard@epa.gov](mailto:burkhart.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. General Information-Copies of Documents

EPA's approval letters and TSD and each State's MCR submittal are available at the Regional Office, which is identified in the **ADDRESSES** section above. Copies of these same items are also available for public inspection during normal business hours, by appointment at the respective State Air Agency Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108; Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095; and Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908-5767.

#### II. Further Information

##### A. Background

EPA's 1996 modeling guidance recognized the need to perform a mid-course review as a means for addressing uncertainty in the modeling results. In its December 16, 1999 proposed rulemakings on the 1-hour ozone attainment demonstrations for ten ozone nonattainment areas (see one example at 64 FR 70348), EPA stated that because of the uncertainty in long-term projections, it believes that an attainment demonstration that relies on weight of evidence needs to contain

provisions for periodic review of monitoring, emissions, and modeling data to assess the extent to which refinements to emission control measures are needed. In those December 16, 1999 proposed rulemakings, EPA set forth its framework for reviewing and processing 1-hour ozone attainment demonstrations and one element of that framework was a commitment for a MCR.

A MCR provides an opportunity for the state and EPA to assess if a nonattainment area is or is not making sufficient progress toward attainment of the one-hour ozone standard. The MCR should utilize the most recent monitoring and other data to assess whether the control measures relied on in a SIP's attainment demonstration have resulted in adequate improvement of the ozone air quality. The EPA believes that a MCR is a critical element in any attainment demonstration that employs a long-term projection period and relies on a weight-of-evidence test. The commitment to perform a MCR was required before EPA would approve most 1-hour ozone attainment demonstrations. Moreover, even though the 1-hour ozone standard has been revoked by EPA (70 FR 44470, June 15, 2005), the anti-backsliding provisions of EPA's 8-hour ozone implementation rule (69 FR 23951, April 30, 2004) continue to require areas with outstanding commitments to perform a 1-hour MCR to do so.

The three 1-hour ozone nonattainment areas in New England that are the subject of this notice are as follows: (1) The Massachusetts portion of the Boston-Lawrence-Worcester, MA-NH area, (2) the New Hampshire portion of the Boston-Lawrence-Worcester, MA-NH area, and (3) the Providence, Rhode Island area. EPA's final approval of the attainment demonstrations for both portions of the Boston-Lawrence-Worcester, MA-NH 1-hour ozone nonattainment area, each with a commitment to perform a MCR, was published on December 6, 2002 (67 FR 72574 and 67 FR 72576). EPA's final approval of the attainment demonstration for the Providence, Rhode Island 1-hour ozone nonattainment area with the commitment to perform a MCR was published on April 7, 2003 (68 FR 16721).

##### B. MCR Guidance

On March 28, 2002, EPA issued a memorandum entitled "Mid-Course Review Guidance for the 1-Hour Ozone Nonattainment Areas that Rely on Weight-of-Evidence for Attainment Demonstration." Attached to that