

absence of a 90-day limit on bringing complaints will cause regulatory uncertainty and present significant cost and risks to market participants.<sup>95</sup> Because the Market Behavior Rules are being rescinded, the 90-day time limit will no longer apply. In Order No. 670, we noted that a five-year statute of limitations is applicable to the imposition of civil penalties, and specifically rejected requests to retain the 90-day period used for the Market Behavior Rules.<sup>96</sup> Consistent with the discussion of this issue in Order No. 670, we reject requests to retain the 90-day requirement and rescind Appendix B of the Market Behavior Rules Order.

### 3. Additional Comments

53. A few parties requested an additional opportunity to comment once the Commission has finalized the proposed new anti-manipulation rule. The CEOB, for instance, asked that we provide the final language of the new anti-manipulation rule, then permit another round of comments in this proceeding on the appropriate scope and nature of changes to the Market Behavior Rules.<sup>97</sup> Similarly, SCE asks the Commission to institute a comprehensive, omnibus proceeding to adopt a new regulatory regime and, as appropriate, eliminate the current Market Behavior Rules.<sup>98</sup> This is not necessary. Order No. 670 adopted the proposed anti-manipulation rule with no substantive changes. As a result, comments predicated on the proposed anti-manipulation rule remain valid, and there is no need to have yet another round of comments on proposed changes to the Market Behavior Rules.

### III. Conclusion

54. The Market Behavior Rules played a beneficial role as the Commission's oversight of wholesale energy markets continued to evolve. With the enactment of specific anti-manipulation authority in EPCA 2005, however, the time has come to shift our regulatory tools to focus on the anti-manipulation authority we now have under new FPA section 222 and the new rule in part 1c of our regulations. This will allow us to continue to protect customers with respect to manipulation by any entity, but in a manner consistent with Congressional guidance. The Commission will continue to monitor wholesale markets as they evolve and will consider changes in its regulations as may be necessary to assure that

wholesale markets are well-functioning and result in just and reasonable energy prices. With respect to the other provisions of the Market Behavior Rules, the substantive aspects of these Rules are being codified in our regulations and being made applicable to market-based rate sellers.

#### *The Commission Orders*

(A) Market Behavior Rules 2 and 6 and Appendix B of the Market Behavior Rules Order are hereby rescinded, effective upon publication of this order in the **Federal Register**. As discussed in the body of this order, Market Behavior Rules 1, 3, 4, and 5 are removed from sellers' market-based rate tariffs as of the date they are codified in the Commission's regulations under the Federal Power Act.

(B) Market-based rate sellers are hereby notified that they need not refile or amend their tariffs with respect to the rescission and removal of the Market Behavior Rules, unless we direct otherwise in the future. In the absence of any such direction, at such time as sellers make any amendments to their market-based rate tariffs or seek continued authorization to sell at market-based rates (e.g., in their three-year update filings), sellers shall at that time remove the Market Behavior Rules from their tariffs. Notwithstanding this, as of the date this order is published in the **Federal Register**, Market Behavior Rules 2 and 6 will be of no force or effect in sellers' tariffs, and Market Behavior Rules 1, 3, 4, and 5 will be of no force and effect in seller's tariffs as of the effective date of the Market Behavior Rules Codification Order.

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

By the Commission.

**Magalie R. Salas,**  
Secretary.

#### **Appendix—List of Parties Filing Comments and Reply Comments and Acronyms**

Ameren Services Company (Ameren).  
American Public Power Association and the Transmission Access Policy Study Group (APPA/TAPS).  
California Electricity Oversight Board (CEOB).  
California ISO (CAISO).  
California Public Utilities Commission (CPUC).  
Cinergy Services, Inc. and Cinergy Marketing & Trading, LP (Cinergy).  
Constellation Energy Group Inc., *et al.* (Indicated Market Participants).  
Edison Electric Institute (EEI).  
Electric Power Supply Association (EPSA).  
ISO New England (ISO-NE).\*

National Association of State Utility Consumer Advocates (NASUCA).  
New England Conf. of Public Utilities Commissioners and Vermont Department of Public Service (NECPUC).  
New Jersey Board of Public Utilities (NJBPUC).  
New York Independent System Operator, Inc. (NYISO).  
Pacific Gas and Electric Company (PG&E).  
PJM Industrial Customer Coalition (PJMICC).  
PJM Interconnection, L.L.C. (PJM).  
PNM Resources (PNMR).  
Sacramento Municipal Utility District (SMUD).  
Southern California Edison Company (SCE).  
SUEZ Energy North America, Inc. (SUEZ).  
Transmission Dependent Utility Systems (TDUS).\*

\* Entities filing reply comments only.

\*\* Entities filing reply comments in addition to initial comments.

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 11858-002, California]

#### **Elsinore Municipal Water District and the Nevada Hydro Company, Inc.; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Lake Elsinore Advanced Pumped Storage Project**

February 17, 2006.

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 Projects has reviewed the application for license for the proposed Lake Elsinore Advanced Pumped Storage Project (FERC No. 11858), located on Lake Elsinore and San Juan Creek, in the Town of Lake Elsinore, Riverside County, California, and has prepared a Draft Environmental Impact Statement (draft EIS) for the project.

In the draft EIS, Commission staff evaluate the co-applicant's proposal and the alternatives for licensing the proposed project. The draft EIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicants, and Commission staff.

Comments should be filed with Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All comments must be filed by April 25, 2006, and should reference Project No. 11858-002. Comments may be filed electronically via the Internet in lieu of

<sup>95</sup> ESPA at 8.

<sup>96</sup> Order No. 670, 114 FERC ¶ 61,047 at P 62-63.

<sup>97</sup> CEOB at 6.

<sup>98</sup> SCE at 3, 9.

paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and instructions on the Commission's Web site at <http://www.ferc.gov> under the eLibrary link.

The Commission staff will consider comments made on the draft EIS in preparing a final EIS for the project, which we expect to issue in July of this year. Before the Commission makes a licensing decision, it will take into account all concerns relevant to the public interest. The final EIS will be part of the record from which the Commission will make its decision.

Copies of the draft EIS are available for review in the Commission's Public Reference Branch, Room 2A, located at 888 First Street, NE., Washington, DC 20426. The draft EIS also may be viewed on the Internet at <http://www.ferc.gov> under the eLibrary link. Please call (202) 502-8822 for assistance.

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

For further information, contact Jim Fargo at (202) 502-6095 or at [james.fargo@ferc.gov](mailto:james.fargo@ferc.gov).

**Magalie R. Salas,**  
Secretary.

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2183-035—Oklahoma]

#### Grand River Dam Authority; Notice of Availability of Environmental Assessment

February 17, 2006.

In accordance with the National Environmental Policy Act of 1969, as amended, and Federal Energy Regulatory Commission (FERC or Commission) regulations (Order No. 486, 52 FR 47879), the Office of Energy Projects has reviewed the application for a new license for the Markham Ferry Project (FERC No. 2183-035), located on the Grand River in Mayes County, Oklahoma, and has prepared an environmental assessment (EA). The EA contains the staff's analysis of the potential environmental effects of relicensing the project and concludes that issuing a new license, with appropriate environmental measures,

would not constitute a major Federal action that would significantly affect the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA also 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 documents. 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.

Any comments on the EA should be filed within 30 days of the date of this notice and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1-A, Washington, DC 20426. Please reference "Markham Ferry Project, FERC Project No. 2183-035" on all comments. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "eFiling" link. For further information, contact John Ramer at (202) 502-8969.

**Magalie R. Salas,**  
Secretary.

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2114-116]

#### Public Utility District No. 2 of Grant County, Washington (Grant PUD); Notice of Settlement Agreement and Soliciting Comments

February 17, 2006.

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

- a. *Type of Application:* The Priest Rapids Salmon and Steelhead Settlement Agreement.
- b. *Project No.:* P-2114-116.
- c. *Date Filed:* February 10, 2006.
- d. *Applicant:* Public Utility District No. 2 of Grant County, Washington (Grant PUD).
- e. *Name of Project:* Priest Rapids Hydroelectric Project.
- f. *Location:* On the mid-Columbia River, near the city of Ellensburg, in Grant, Yakima, Kittitas, Douglas, Benton, and Chelan Counties, Washington.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* William J. Madden, Jr., Attorney, Winston & Strawn LLP, 1700 K Street, NW., Washington, DC 20006, (202) 282-5000.

i. *FERC Contact:* Charles Hall, (202) 502-6853, [charles.hall@ferc.gov](mailto:charles.hall@ferc.gov).

j. *Deadline for Filing Comments:* March 8, 2006. Reply comments: March 20, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, 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.

Comments 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 "e-Filing" link.

k. Grant PUD filed the settlement agreement on behalf of themselves and NOAA Fisheries; U.S. Fish and Wildlife Service; Washington Department of Fish and Wildlife; and the Confederated Tribes of the Colville Reservation. The purpose of the settlement agreement is to resolve among the signatories issues regarding the relicensing of the Priest Rapids Hydroelectric Project. The signatories have agreed that the settlement agreement is fair and reasonable and in the public interest. On behalf of the signatories, Grant PUD requests that the Commission approve the settlement agreement and adopt it as part of a new license without material modification.

l. A copy of the settlement agreement 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