

Developing Hispanic-Serving Institutions Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Burden:

Responses: 100

Burden Hours: 850

[FR Doc. 99-8748 Filed 4-7-99; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent Arrangement.

SUMMARY: The Department is providing a notice of a proposed "subsequent arrangement" under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community (EURATOM) and the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning the Civil Uses of Atomic Energy. This notice is being issued under the authority of section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160).

The subsequent arrangement concerns approval of RTD/CA(EU)-1 involving the return of 25,000 grams of fuel fabrication scrap, containing 23,280 grams of the isotope U-235 (93.15 percent enrichment) from UKAEA in Dounreay, United Kingdom, to, AECL in Chalk River, Canada. The material was originally transferred to the United Kingdom for the recovery of HEU under RTD/EU(CA)-15, which was implemented on October 28, 1997. The recovery process has now been completed and is ready for retransfer to Canada for use as target material for the production of Molybdenum 99.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: April 2, 1999.

For the Department of Energy.

Ed Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 99-8757 Filed 4-7-99; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99-473-001, ER99-418-001 and EL99-47-000]

California Independent System Operator Corporation and Pacific Gas and Electric Company; Notice of Initiation of Proceeding and Refund Effective Date

April 5, 1999.

Take notice that on April 2, 1999, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL99-47-000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL99-47-000 will be 60 days after publication of this notice in the **Federal Register**.

David P. Boergers,

Secretary.

[FR Doc 99-8747 Filed 4-7-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IN99-2-000]

Communications of Market Information Between Affiliates; Declaratory Order

Issued April 1, 1999.

Before Commissioners: James J. Hoecker, Chairman; William L. Massey, Linda Breathitt, and Curt Hébert, Jr.

The Enforcement section, Office of the General Counsel (Enforcement), received a complaint on the Enforcement Hotline that a public utility informed its affiliate by phone to look the next day on the public utility's Internet website for an offer to sell energy. The following day, the public utility advertised discounted energy on its website for only a half-hour. The affiliate and another non-affiliated entity arranged to purchase the discounted energy from the public utility based on the posting. Three weeks later, another non-affiliate requested the same discount terms. The public utility refused to sell energy to

that non-affiliate on the same terms at that time.

This scenario raises an issue of whether the public utility gave its affiliate an undue preference by telling the affiliate in advance to look on the public utility's website for information about an offer to sell energy. To provide guidance and eliminate any future uncertainty, the Commission clarifies that a public utility must not alert its affiliate to check for an electronic posting. Such a tip is market information that a utility cannot selectively disclose to an affiliate.

Background

The Hotline learned that a public utility was called by its power marketing affiliate which sought inexpensive energy for a specified term. Several days later, the public utility told its affiliate that the public utility would post on its web page an offer for energy sales with price information the following day.

The next day, the public utility posted on its website an offer to sell a certain quantity of megawatts of installed capacity and energy for a specified term at a particular price. The public utility posted the offer for 30 minutes.

On the day the offer was posted, the affiliate requested all of the megawatts posted. Later the same day, a non-affiliated entity requested a quantity of energy under the same terms given to the affiliate. The public utility agreed to that request as well.

Three weeks later, a second non-affiliated entity requested energy on the same terms that the public utility had given the affiliate and the first non-affiliated entity. The public utility responded that it could only offer capacity and energy on a month-to-month basis and at a different price than it had given the affiliate. When the second non-affiliated entity asked about the sales that the public utility had made to its affiliate and the first non-affiliated entity, the public utility replied that that offering was posted on its website on one day, and that the price had to go up after that day because the public utility faced new environmental requirements and other restrictions.

Discussion

This sale raises the issue of whether the public utility provided an undue preference to its affiliate by telling the affiliate to look for an offer prior to posting the offer on its website.¹ The

¹ There are several problems with this communication: the public utility gave advance notice of the posting to the affiliate—shortly after

Commission clarifies such an advance communication to an affiliate provides an undue preference in violation of section 205 of the Federal Power Act (FPA).

Under section 205 of the FPA, the Commission has jurisdiction over all rates and charges for the transmission or sale of electric energy for resale in interstate commerce by public utilities. Section 205(b) prohibits a public utility from making or granting undue preference or advantage to any person or subjecting any person to any undue preference or disadvantage or maintaining any unreasonable difference in rates, charges, services or facilities with respect to jurisdictional transmission or sales.

In *Detroit Edison Company, et al. (Detroit Edison)*, 80 FERC ¶ 61,348 at 62,197-98 (1997), and *Allegheny Power Service Corporation (Allegheny)*, 82 FERC ¶ 61,245 (1998), the Commission provided procedures for notice and posting of affiliate transactions. In particular, *Detroit Edison* established three conditions to guard against preferences to affiliates in sales: (1) A public utility may sell power to its affiliate only at a rate that is no lower than the rate it charges non-affiliates; (2) a public utility offering to sell power to an affiliated marketer must make the same offer, at the same time, to non-affiliated entities via its electronic bulletin board; and (3) the public utility must post simultaneously on its electronic bulletin board the actual price charged to its affiliate for all transactions.² However, *Detroit Edison* does not directly address whether a public utility may alert an affiliate to a prospective offering prior to actually posting the offering on its website.

In *UtiliCorp United, Inc., et al.* (in which the Commission authorized a public utility to sell power at market-based rates), the Commission specifically required that all market information that is shared with an affiliate must be shared with non-affiliates:

All market information shared with an affiliated power marketer must be disclosed simultaneously [to non-affiliates]. This includes information on sales or purchases that will not be made. . . . If there is any communication

the affiliate's telephone request for power. The public utility offered the power for sale for only a half-hour the following day. The short duration of the posting enhanced the value of the tip to look for the posting.

²The Commission did not specify what it means to "post" information on an "electronic bulletin board." With more pervasive use of the Internet, "posting" information regarding electric sales or transmission transactions generally means to place it on an Internet site.

between the two concerning the utility's power or transmission business—broker-related or not, present or future, positive or negative, concrete or potential, significant or slight—it must be simultaneously communicated to all non-affiliates.³

Notifying an affiliate to look for a posting is market information that a public utility must communicate simultaneously to non-affiliates. This is consistent with the Commission's ruling in the transmission context that direct communication by phone is not equal to posting information on OASIS. In *American Electric Power Service Corporation, et al.*, The Commission ruled that transmission providers may not disseminate transmission information to merchant function employees or affiliated marketers by phone, while requiring non-affiliates to search the OASIS. Indeed, the Commission stated that transmission employees may not "selectively inform wholesale merchant employees that transmission information will be posted on the OASIS at a specific time."⁴

Therefore, the Commission clarifies that market information is not limited to an actual offer to sell or purchase power; it includes the timing of electronic postings. Public utilities may not selectively communicate any market information to or with affiliates. Market information that is given to an affiliate must be disclosed simultaneously to all non-affiliates.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-8746 Filed 4-7-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99-7-000]

Destin Pipeline Company, L.L.C.; Notice of Tariff Filing

April 2, 1999.

Take notice that on March 30, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective on May 1, 1999:

³75 FERC ¶ 61,168 at 61,557 (1996), *reh'g denied*, 76 FERC ¶ 61,192 (emphasis in original); *accord* Cambridge Electric Light Company, *et al.*, 85 FERC ¶ 61,217 at 61,898 (1998).

⁴81 FERC ¶ 61,332 at 62,516 (1997).

Second Revised Sheet No. 123 Original Sheet No. 123a

Destin states that the purpose of this filing is to update Section 20 of the General Terms and Conditions of its Tariff relating to marketing affiliates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc/fed/us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-8699 Filed 4-7-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-266-000]

Destin Pipeline Company, L.L.C.; Notice of Proposed Changes to FERC Gas Tariff

April 2, 1999.

Take notice that on March 30, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective May 1, 1999:

First Revised Sheet No. 17
Second Revised Sheet No. 20
Second Revised Sheet No. 25
First Revised Sheet No. 26a
First Revised Sheet No. 68
First Revised Sheet No. 86
Third Revised Sheet No. 87
First Revised Sheet No. 90
Second Revised Sheet No. 194
First Revised Sheet No. 194a
Second Revised Sheet No. 210
First Revised Sheet No. 244

Destin states that the purpose of this filing is to revise its Tariff to incorporate certain modifications and clarifications to Rate Schedule FT-2, and to Section