

such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect from the date this Decision and Order is issued until DOE prescribes final test procedures appropriate to the above model series manufactured by Whirlpool.

(6) This waiver is conditioned upon the presumed validity of statements, representations, and documentary materials provided by the petitioner. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition for Waiver is incorrect, or DOE determines that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

Issued in Washington, DC, on April 21, 2009.

**Steven G. Chalk,**

*Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. E9-10321 Filed 5-4-09; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 12589-001-CO]

#### Public Service Company of Colorado; Notice of Availability of Draft Environmental Assessment

April 28, 2009.

In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Energy Regulatory Commission's (Commission or FERC) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a new major license for the Tacoma Hydroelectric Project (FERC No. 12589), located on Cascade, Little Cascade and Elbert Creeks in San Juan and La Plata Counties, Colorado. The project currently occupies, in part, 233.4 acres of Federal land in the San Juan National Forest administered by the U.S. Forest Service.

Staff prepared a draft environmental assessment (EA) that analyzes the probable environmental effects of relicensing the project and concludes that relicensing the project, with appropriate staff-recommended environmental measures, would not constitute a major Federal action significantly affecting 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 may also 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.

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.

Comments on the EA should be filed within 30 days from the issuance 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 affix "Tacoma Hydroelectric Project No. 12589-001" to all comments. 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 under the "eFiling" link. For further information, contact David Turner at (202) 502-6091.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E9-10252 Filed 5-4-09; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER09-1028-000]

#### Coventa Hempstead Company; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

April 28, 2009.

This is a supplemental notice in the above-referenced proceeding of Coventa Hempstead Company's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214

of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 18, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E9-10251 Filed 5-4-09; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### Post-2010 Resource Pool, Pick-Sloan Missouri Basin Program—Eastern Division

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of Final Procedures.

**SUMMARY:** Western Area Power Administration (Western), Upper Great Plains Region, a Federal power marketing agency of the Department of

Energy (DOE), hereby announces its Post-2010 Resource Pool Allocation Procedures. The Energy Planning and Management Program (Program) provides for establishing project-specific resource pools and allocating power from these pools to new preference customers and other appropriate purposes as determined by Western. Western, in accordance with the Program, is finalizing procedures to administer a Federal power resource pool increment of up to 1 percent (approximately 20 megawatts) of the long-term marketable resource of the Pick-Sloan Missouri Basin Program—Eastern Division (P-SMBP—ED) that will become available January 1, 2011 (Post-2010 Resource Pool). Western proposed procedures in the **Federal Register** on October 15, 2008 (73 FR 61109), and responses to public comments received pertaining to the proposed procedures are included in this notice. Western will publish a notice of proposed allocations in the **Federal Register** after the effective date of this notice.

**DATES:** The Post-2010 Resource Pool Allocation Procedures will become effective June 4, 2009.

**ADDRESSES:** Information regarding the Post-2010 Resource Pool Allocation Procedures, including comments, letters, and other supporting documents made or kept by Western for the purpose of developing the final procedures, are available for public inspection and copying at the Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101-1266. Public comments are available for viewing at: <http://www.wapa.gov/ugp/Post2010/Post2010CmtLtr.htm>.

**SUPPLEMENTARY INFORMATION:** Western published the Final Rule for the Program (Final Rule) on October 20, 1995 (60 FR 54151). The Final Rule became effective on November 20, 1995. Subpart C—Power Marketing Initiative of the Program, Final Rule, 10 CFR part 905, provides for project-specific resource pools and allocations of power from these pools to eligible new preference customers and/or for other appropriate purposes as determined by Western. The additional resource pool increments shall be established by pro rata withdrawals, on 2 years' notice, from existing customers. Specifically, 10 CFR 905.32(b) provides:

At two 5-year intervals after the effective date of the extension to existing customers, Western shall create a project-specific resource pool increment of up to an additional 1 percent of the long-term marketable resource under contract at the

time. The size of the additional resource pool increment shall be determined by Western based on consideration of the actual fair-share needs of eligible new customers and other appropriate purposes.

Western held a public information and comment forum on November 20, 2008, to accept oral and written comments on the proposed procedures and call for applications. The formal comment period ended January 13, 2009. The Post-2010 Resource Pool Allocation Procedures in this **Federal Register** notice explain in detail how Western intends to implement Subpart C—Power Marketing Initiative of the Energy Planning and Management Program Final Rule in the P-SMBP—ED.

### Response to Comments Regarding Post-2010 Resource Pool Allocation Procedures

#### Comments and Responses

*Comment:* Western received a comment stating that it should stay consistent with prior marketing initiatives and with the rules and regulations of the Program. The comment expressed concern that Western has been inconsistent in regard to whether Western allocates power based on an entity already having a Federal power commitment versus the entity already having an allocation of firm power from Western.

*Response:* Western agrees with the importance of acting consistently and in accordance with the P-SMBP—ED Final Post 1985 Marketing Plan (45 FR 71860, October 30, 1980) (Post-1985 Marketing Plan), the Program, and the Post-2000 and Post-2005 Marketing Initiatives. In response to public comments and to stay consistent with the Post-1985 Marketing Plan and the intent of the Program, General Eligibility Criterion C was clarified in the Notice of Final Procedures **Federal Register** (68 FR 67414, December 2, 2003), for the Post-2005 Resource Pool by adding “or other firm Federal power commitment.” New Western customers from the Post-2000 and Post-2005 Resource Pools were allocated power consistent with this clarification.

*Comment:* Western received a comment urging Western to consider giving allocations to cooperatives a higher priority than other applicants under the Post-2010 Resource Pool.

*Response:* The preference clause provides for public entities to be given preference over private entities in the marketing of Federal power. There are no preference entity applicants with a higher priority than another. Western will not provide a higher priority to one

preference entity applicant over another in the Final Post-2010 Resource Pool Allocation Procedures.

*Comment:* Western received comments in support of an entity's application for power under the Post-2010 Resource Pool.

*Response:* All applications received by Western for an allocation of power from the Post-2010 Resource Pool will be considered in accordance with the Final Post-2010 Resource Pool Allocation Procedures.

*Comment:* Western received a comment that Criterion D of the General Eligibility Criteria does not accurately describe the prohibition of resale by a non-utility or a utility to a non-member per Western's General Power Contract Provisions. Resale by a non-utility or a utility to a non-member would be a violation of Western's General Power Contract Provisions; however Western does permit the sale of firm power to a utility's member systems in recognizing the structure of joint action agencies and rural electric generation and transmission cooperatives.

*Response:* Criterion D is one of several criteria intended for the purpose of determining general eligibility of the applicant and is not intended to fully describe resale. Western agrees that the prohibition of resale, by a non-utility or utility, is addressed in Western's General Power Contract Provisions which are required under the General Contract Principles, Principle E.

*Comment:* Western received a comment that contract provisions for new Post-2010 Resource Pool firm power customers should be identical to the terms and conditions of existing firm power customers and in considering applications and making new allocations, Western must act within existing laws and regulations. Also, if withdrawals are made for future resource pools, reductions should be applied to all firm power contract holders.

*Response:* Western agrees that any new allocation made from the Post-2010 Resource Pool must comply with existing laws, regulations, and guidelines, as well as contract terms and conditions applied to allocations made in previous marketing initiatives under the Program. There are no future resource pools for the Program in the P-SMBP—ED. Withdrawals for future resource pools are outside the scope of this process.

*Comment:* Western received a comment that in no event should Western use “appropriate purposes” to attempt to legislate new policy regarding eligibility requirements for receiving firm power allocations.

*Response:* Western is not proposing to use a share of the Post-2010 Resource Pool for other appropriate purposes.

*Comment:* Western received several comments pertaining to Western granting exceptions or waivers to various General Eligibility Criteria for individual applicants.

*Response:* If Western were to consider individual exceptions or waivers to the Post-2010 Allocation Procedures, all entities would need to be afforded the opportunity to submit new applications. Western would expect to receive many new applications with significant requests for granting individual waivers or exceptions. This process would undermine Program consistency, and may not be supportable by existing laws and regulations or the power available in the Post-2010 Resource Pool. Western will not grant exceptions or waivers to the Final Post-2010 Resource Pool Allocation Procedures in determining which entities are eligible for an allocation of power.

#### **Final Post-2010 Resource Pool Allocation Procedures**

##### *I. Amount of Pool Resources*

Western will allocate up to 1 percent (approximately 20 megawatts) of the P-SMBP—ED long-term firm hydroelectric resource available as of January 1, 2011, as firm power to eligible new preference customers. Firm power means capacity and associated energy allocated by Western and subject to the terms and conditions specified in the Western electric service contract.

##### *II. General Eligibility Criteria*

Western will apply the following General Eligibility Criteria to applicants seeking an allocation of firm power under the Post-2010 Resource Pool Allocation Procedures.

A. All qualified applicants must be preference entities as defined by section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), as amended and supplemented.

B. All qualified applicants must be located within the currently established P-SMBP—ED marketing area.

C. All qualified applicants must not be currently receiving benefits, directly or indirectly, from a current P-SMBP—ED firm power allocation or other firm Federal power commitment. Qualified Native American applicants, who did not receive an allocation from the Post-2000 or Post-2005 Resource Pools, are not subject to this requirement.

D. Qualified utility and non-utility applicants must be able to use the firm power directly or be able to sell it directly to retail customers.

E. Qualified utility applicants that desire to purchase power from Western for resale to consumers, including cooperatives, municipalities, public utility districts, and public power districts must have met utility status by January 1, 2008. Utility status means the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from Western on a wholesale basis.

F. Qualified Native American applicants must be an Indian tribe as defined in the Indian Self Determination Act of 1975, 25 U.S.C. 450b, as amended.

##### *III. General Allocation Criteria*

Western will apply the following General Allocation Criteria to applicants seeking an allocation of firm power under the Post-2010 Resource Pool Allocation Procedures.

A. Allocations of firm power will be made in amounts as determined solely by Western in exercise of its discretion under Federal Reclamation Law.

B. An allottee will have the right to purchase such firm power only upon executing an electric service contract between Western and the allottee, and satisfying all conditions in that contract.

C. Firm power allocated under these procedures will be available only to new preference customers in the existing P-SMBP—ED marketing area. The marketing area of the P-SMBP—ED is Montana (east of the Continental Divide), all of North Dakota and South Dakota, Nebraska east of the 101° meridian, Iowa west of the 94½° meridian, and Minnesota west of a line on the 94½° meridian from the southern boundary of the state to the 46° parallel and then northwesterly to the northern boundary of the state at the 96½° meridian.

D. Allocations made to Native American tribes will be based on the actual load experienced in calendar year 2007. Western has the right to use estimated load values for calendar year 2007 should actual load data not be available. Western will adjust inconsistent estimates during the allocation process.

E. Allocations made to qualified utility and non-utility applicants will be based on the actual loads experienced in calendar year 2007. Western will apply the Post-1985 Marketing Plan and the Program criteria to these loads. Western will carry forward key principles and criteria established in the Post-2000 and Post-2005 Resource Pools, except as modified herein.

F. Energy provided with firm power will be based upon the customer's monthly system load pattern.

G. Any electric service contract offered to a new customer shall be executed by the customer within 6 months of a contract offer by Western, unless otherwise agreed to in writing by Western.

H. The resource pool will be dissolved subsequent to the closing date of the last qualified applicant to execute their respective firm electric service contract. Firm power not under contract will be used in accordance with the Program.

I. The minimum allocation shall be 100 kilowatts (kW).

J. The maximum allocation for qualified utility and non-utility applicants shall be 5,000 kW.

K. Contract rates of delivery shall be subject to adjustment in the future as provided for in the Program.

L. If unanticipated obstacles to the delivery of hydropower benefits to Native American tribes arise, Western retains the right to provide the economic benefits of its resources directly to these tribes.

##### *IV. General Contract Principles*

Western will apply the following General Contract Principles to all applicants receiving an allocation of firm power under the Post-2010 Resource Pool Allocation Procedures.

A. Western shall reserve the right to reduce a customer's summer season contract rate of delivery by up to 5 percent for new project pumping requirements, by giving a minimum of 5 years' written notice in advance of such action.

B. Western, at its discretion and sole determination, reserves the right to adjust the contract rate of delivery on 5 years' written notice in response to changes in hydrology and river operations. Any such adjustments shall only take place after a public process by Western.

C. Each allottee is ultimately responsible for obtaining its own third-party delivery arrangements, if necessary. Western may assist the allottee in obtaining third-party transmission arrangements for the delivery of firm power allocated under these procedures to new customers.

D. Contracts entered into under the Post-2010 Resource Pool Allocation Procedures shall provide for Western to furnish firm electric service effective from January 1, 2011, through December 31, 2020.

E. Contracts entered into as a result of these procedures shall incorporate Western's standard provisions for power

sales contracts, integrated resource planning, and the General Power Contract Provisions.

### Post-2010 Resource Pool Procedures Requirements

#### Environmental Compliance

Western completed an Environmental Impact Statement on the Program (DOE/EIS-0812), pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347 (2007), as amended and supplemented, (NEPA). The Record of Decision was published in the **Federal Register** on October 12, 1995 (60 FR 53181). Western's NEPA review assured all environmental effects related to these actions have been analyzed.

Dated: April 28, 2009.

**Timothy J. Meeks,**

Administrator.

[FR Doc. E9-10319 Filed 5-4-09; 8:45 am]

BILLING CODE 6450-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8900-6]

### Cross-Media Electronic Reporting Rule State Authorized Program Revision/Modification Approvals: State of Delaware

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

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's approval, under regulations for Cross-Media Electronic Reporting, of the State of Delaware's request to revise/modify programs to allow electronic reporting for certain of their EPA-authorized programs.

**DATES:** EPA's approval is effective May 5, 2009.

**FOR FURTHER INFORMATION CONTACT:** Evi Huffer, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 566-1697, [huffer.evi@epa.gov](mailto:huffer.evi@epa.gov), or David Schwarz, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 566-1704, [schwarz.david@epa.gov](mailto:schwarz.david@epa.gov).

#### SUPPLEMENTARY INFORMATION:

On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR.

CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Under subpart D of CROMERR, State, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and get EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, in 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the State, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the State, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On August 21, 2008, the State of Delaware Department of Natural Resources and Environmental Control (DEDNREC) submitted an application for their Online Reporting System (ORS) electronic document receiving system for revision or modification of EPA-authorized programs under 40 CFR parts 51, 60, 122, and 271. EPA reviewed DEDNREC's request to revise/modify their EPA-authorized programs and, based on this review, EPA determined that the application met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve DEDNREC's request for revision/modification to certain of their authorized programs is being published in the **Federal Register**.

Specifically, EPA has approved DEDNREC's request for revisions/modifications to the following of their authorized programs to allow electronic reporting under 40 CFR parts 51, 61, 122, 261-265:

- Part 51—Requirements for Preparation, Adoption, and Submittal of Implementation Plans;
- Part 60—Standards of Performance for New Stationary Sources;

- Part 123—National Pollutant Discharge Elimination System (NPDES) State Program Requirements; and
- Part 271—Requirements for Authorization of State Hazardous Waste Programs.

DEDNREC was notified of EPA's determination to approve its application with respect to the authorized programs listed above in a letter dated April 23, 2009.

Dated: April 23, 2009.

**Lisa Schlosser,**

Director, Office of Information Collection.

[FR Doc. E9-10332 Filed 5-4-09; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL MEDIATION AND CONCILIATION SERVICE

### Labor-Management Cooperation Program Act of 1978 (Pub. L. 95-524)

**AGENCY:** Federal Mediation and Conciliation Service.

**ACTION:** Publication of Final Fiscal Year 2009 Program Guidelines/Application Solicitation for Labor-Management Committees.

**SUMMARY:** The Federal Mediation and Conciliation Service (FMCS) is publishing the final Fiscal Year 2009 Program Guidelines/Application Solicitation for the Labor-Management Cooperation Program. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations. This Solicitation contains a change in the deadline for accepting applications.

The National Council of EEOC Locals No. 216 submitted a comment in response to the draft filing which was published in the **Federal Register** on March 20, 2009, [Volume 74, Number 3 (Pages 11948-11952)]. The Locals No. 216 has not applied for a grant because it was ineligible to do so under FMCS regulations [FY2009 Program Guidelines/Application Solicitation for Labor Management Committees (Section (C) Eligibility, Page 9)]. Its comments involve that regulation. Locals No. 216 has requested in effect that FMCS allow Federal agencies to apply for an FMCS grant. We have carefully considered the comment, and understand that implementation of the change requested would increase the likelihood of grant acceptance for the Equal Employment Opportunity Commission (EEOC). However, FMCS is not able to adopt the requested changes due to OMB regulations [OMB Circular A-102, Grants and Cooperative Agreements