

UNITED STATES OF AMERICA 106 FERC ¶ 61,215
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell and Joseph T. Kelliher.

Acadia Power Partners, LLC	ER03-1372-002
Acadia Power Partners, LLC	ER03-1372-001
Acadia Power Partners, LLC	ER02-1406-002
AES Delano, Inc.	ER03-1207-001
AES Delano, Inc.	ER00-891-003
AES Placerita, Inc.	ER03-287-001
AES Placerita, Inc.	ER00-33-004
Alcan Power Marketing, Inc.	ER02-1084-001
Alcoa Power Generating Inc.	ER00-1372-002
Alcoa Power Marketing Inc.	ER02-2074-001
Allegheny Energy Supply Company, LLC	ER01-811-001
Amerada Hess Corporation	ER97-2153-013
American Ref-Fuel Co. of Delaware Valley, L.P.	ER00-2677-003
American Ref-Fuel Co. of Essex County	ER03-170-002
American Ref-Fuel Company of Niagara, L.P.	ER01-1302-003
AmPro Energy Wholesale, Inc.	ER03-1039-002
ANP Bellingham Energy Company	ER00-2117-002
ANP Blackstone Energy Company	ER00-2118-002
ANP Funding I, L.L.C.	ER00-3751-002
ANP Marketing Company	ER00-1828-002
Aquila Long Term, Inc.	ER02-47-002
Aquila Piatt County Power L.L.C.	ER03-725-002
Armstrong Energy Limited Partnership, LLLP	ER02-24-003
Astoria Energy, LLC	ER01-3103-004
Astoria Generating Company, L.P.	ER01-3103-005
Atlantic City Electric Co.	ER99-2781-004
Attala Energy Company, LLC	ER02-40-003
Auburndale Peaker Energy Center, LLC	ER02-1633-001
Baconton Power LLC	ER00-2398-005
Baltimore Gas and Electric Company	ER99-2948-003
Bangor Hydro-Electric Co	ER99-1522-002
Bayswater Peaking Facility, LLC	ER02-669-003

Berkshire Power Company, LLC	ER99-3502-002
Big Sandy Peaker Plant, LLC	ER01-560-002
Black Oak Energy, LLC	ER03-447-002
Black Oak Energy, LLC	ER03-447-001
Blue Canyon Windpower, LLC	ER03-1284-001
Blue Spruce Energy Center, LLC	ER03-25-001
Bluegrass Generation Company, L.L.C.	ER02-506-003
Blythe Energy, LLC	ER02-2018-003
Boston Edison Co., Cambridge Electric Light & Cambridge Electric Co.	ER02-246-002
Brascan Energy Marketing Inc.	ER01-2104-004
Broad River Energy LLC	ER00-38-004
Brookhaven Energy Limited Partnership	ER03-597-002
Calpine California Equipment Finance Company, LLC	ER03-290-001
Calpine Construction Finance Company, L.P.	ER00-1115-002
Calpine Energy Services, L.P.	ER02-614-001
Calpine Energy Services, L.P.	ER00-3562-002
Calpine Northbrook Energy Marketing, LLC	ER03-36-002
Calpine Oneta Power, L.P.	ER02-1367-002
Calpine Parline, LLC	ER03-259-001
Calpine Parline, LLC	ER03-496-001
Calpine Philadelphia, Inc.	ER00-644-002
Calpine PowerAmerica – CA, LLC	ER03-342-001
Calpine PowerAmerica – OR, LLC	ER03-341-001
Calvert Cliffs Nuclear Power Plant, Inc.	ER00-2917-003
CAM Energy Products, LP	ER03-736-002
Camden Cogen, L.P.	ER01-2756-003
Capital District Energy Center Cogeneration Association	ER02-579-002
Carolina Power & Light Company	ER02-879-001
Carolina Power & Light Company	ER01-2301-003
Carolina Power & Light Company	ER98-651-002
Carr Street Generating Station, L.P.	ER98-4095-003
Cathage Energy LLC	ER99-2541-004
CED Rock Springs, Inc.	ER02-2546-002
Cedar Brakes I, L.L.C.	ER00-2885-003
Cedar Breakes II, L.L.C.	ER01-2765-002
Centennial Power, Inc.	ER03-509-001
CES Marketing II, LLC	ER03-206-001
CES Marketing III, LLC	ER03-207-001

CES Marketing IV, L.P.	ER03-208-001
CES Marketing V, L.P.	ER03-209-001
CinCap IV, LLC	ER98-421-012
CinCap V, LLC	ER98-4055-009
CinCap VIII, LLC	ER00-1834-003
Cincinnati Gas & Electric Company / PSI Energy, Inc	ER96-2506-006
Cincinnati Gas & Electric Company / PSI Energy, Inc	ER96-2504-008
Cincinnati Gas & Electric Company and PSI Energy, Inc.	ER01-1820-005
Cinergy Capital & Trading, Inc.	ER01-1337-004
Cinergy Power Investments, Inc.	ER02-177-005
Clark Fork and Blackfoot, L.L.C.	ER02-2569-003
Cleco Evangeline LLC	ER03-1371-001
Cleco Marketing & Trading LLC	ER03-1369-001
Cleco Power LLC	ER03-1368-001
Cogen Technologies NJ Venture	ER02-1486-002
Cogentrix Energy Power Marketing, Inc.	ER95-1739-021
Colorado Green Holdings LLC	ER03-1326-001
Combined Locks Energy Center, LLC	ER01-2659-003
Conectiv Atlantic Generation, LLC & Conectiv Delmarva Generation, Inc.	ER00-1770-006
Conectiv Bethlehem, LLC	ER02-453-003
Constellation NewEnergy, Inc.	ER02-2567-003
Constellation Power Source Generation, Inc.	ER00-2918-003
Constellation Power Source Maine, LLC	ER02-699-002
Constellation Power Source, Inc.	ER00-607-003
Coral Canada US Inc.	ER01-3017-004
Coral Energy Management, LLC	ER01-1363-004
Coral Power, L.L.C.	ER96-25-024
CPN Bethpage 3rd Turbine, Inc.	ER02-1959-001
CPN Pleasant Hill, LLC and CPN Pleasant Hill Operating, LLC	ER01-915-001
Creed Energy Center, LLC	ER02-2227-002
Crescent Ridge LLC	ER02-2310-001
Crete Energy Venture, LLC	ER02-963-003
D.E. Shaw & Co. Energy, L.L.C.	ER03-880-001
D.E. Shaw Plasma Power, L.L.C.	ER03-882-001
D.E. Shaw Plasma Trading, L.L.C.	ER03-879-001
Dartmouth Power Associates Limited Partnership	ER96-149-009
DB Energy Trading LLC	ER03-657-002
Delta Energy Center, LLC	ER02-600-002

Deseret Generation & Transmission Co-operative, Inc.	ER99-2506-002
Deseret Generation & Transmission Co-operative, Inc.	ER03-1123-001
Detroit Edison Company	ER97-324-006
Dighton Power Associates, L.P.	ER99-616-002
Direct Energy Marketing Inc.	ER03-1088-001
Dispersed Generating Company, LLC	ER04-72-001
Dresden Energy, LLC	ER02-22-003
Eagle Energy Partners I, L.P.	ER03-774-001
Eagle Point Cogeneration Partnership	ER01-3055-003
El Paso Merchant Energy, L.P.	ER95-428-025
Elk Hills Power, LLC	ER03-394-003
Emera Energy Services, Inc.	ER02-723-001
Energy America LLC	ER02-1632-001
Energy Atlantic, LLC	ER98-4381-007
Entergy Nuclear Vermont Yankee, LLC	ER02-564-001
Entergy Power Ventures, L.P.	ER02-862-002
Entergy Services, Inc.	ER96-2709-013
EPCOR Merchant and Capital (US) Inc	ER02-783-002
EPCOR Power Development Inc.	ER02-852-002
EPDC, Inc.	ER02-855-002
Epic Merchant Energy, L.P.	ER04-31-001
Erie Boulevard Hydropower, L.P.	ER99-1764-004
Eurus Combine Hills LLC	ER4-135-001
Fairless Energy, LLC	ER02-23-003
Feather River Energy Center, LLC	ER02-2228-001
Fitchburg Gas and Electric Light Company	ER97-2463-003
Florida Power & Light Company	ER03-1292-001
Foote Creek II, LLC	ER99-3450-005
Foote Creek III, LLC	ER99-2769-006
Foothills Generating, L.L.C.	ER02-554-002
FortisOntario, Inc.	ER03-775-001
Fox Energy Company, LLC	ER03-983-001
FPL Energy Marcus Hook, L.P.	ER02-1903-002
FPL Energy New Mexico Wind, LLC	ER03-179-003
FPL Energy North Dakota Wind, LLC	ER03-1104-001
FPL Energy Oklahoma Wind, LLC	ER03-1332-001
FPL Energy Seabrook, LLC	ER02-1838-002
FPL Energy South Dakota Wind, LLC	ER03-1103-001
FPL Energy Wyoming, LLC	ER03-1025-002

FPLE Rhode Island State Energy, LP	ER02-2120-002
Frederickson Power L.P.	ER01-2262-004
Front Range Power Company, LLC	ER02-1173-001
Fulcrum Power Marketing LLC	ER03-908-001
Fulton Cogeneration Associates, L.P.	ER03-439-001
GenWest, LLC	ER03-352-002
GenWest, LLC	ER03-352-002
Geysers Power Company, LLC	ER99-1983-002
Gilroy Energy Center, LLC	ER01-2688-004
Global Common Greenport, LLC	ER03-833-001
Golden Spread Electric Cooperative, Inc.	ER99-705-002
Goose Haven Energy Center, LLC	ER02-2229-001
Great Bay Power Marketing, Inc.	ER03-114-001
Great Lakes Hydro America, LLC	ER02-159-006
Great Plains Power, Inc.	ER02-725-002
Griffith Energy LLC	ER00-3696-003
GS Electric Generating Cooperative, Inc.	ER97-3583-003
Handsome Lake Energy, LLC	ER01-556-002
HC Power Marketing LLC	ER02-388-002
Hermiston Generating Company, L.P.	ER01-2159-004
Hermiston Power Partnership	ER02-1257-001
Hershey Chocolate & Confectionary Corp.	ER03-1159-001
Hess Energy Power & Gas Company, LLC	ER02-1366-001
Hess Energy, Inc.	ER97-4381-007
High Desert Power Project, LLC	ER01-2641-003
High Winds, LLC	ER03-155-002
Holland Energy, LLC	ER01-558-002
Horsehead Industries, Inc.	ER00-2333-002
Indeck-Oswego Limited Partnership	ER02-1081-001
Indianapolis Power & Light Company	ER00-1026-007
Intercom Energy, Inc.	ER02-267-001
ISO New England, Inc.	ER02-2330-021
J. Aron & Company	ER02-237-001
Katahdin Paper Company LLC	ER03-796-002
King City Energy Center, LLC	ER01-2689-004
Klamath Energy LLC	ER01-3121-002
Klamath Generation LLC	ER02-418-001
Klondike Wind Power LLC	ER03-416-004
Lambie Energy Center, LLC	ER02-2230-001

Liberty Electric Power, LLC	ER01-2398-006
Llano Estacado Wind, LP	ER02-73-003
LMP Capital, LLC	ER03-653-002
Los Esteros Critical Energy Facility, LLC	ER03-24-001
Louis Dreyfus Energy LLC	ER02-2366-001
Lowell Cogeneration Company Limited Partnership	ER97-2414-006
Lowell Cogeneration Company Limited Partnership	ER02-361-001
Lower Mount Bethel Energy, LLC	ER02-2408-001
Maine Public Service Co.	ER95-851-005
ManChief Power Company, L.L.C.	ER03-438-002
MEP Clarksdale Power, LLC	ER02-309-002
Merrill Lynch Capital Group, Inc.	ER99-830-008
Mesquite Power, LLC	ER03-427-003
Milford Power Company, LLC	ER99-4102-002
Milford Power Limited Partnership	ER00-2592-002
Mill Run Windpower, LLC	ER02-256-001
Mirant Americas Energy Marketing, LP	ER01-1265-003
Mirant Bowline, LLC	ER01-1266-003
Mirant Canal, LLC	ER01-1268-004
Mirant Energy Trading, LLC	ER02-1213-002
Mirant Kendall, LLC	ER01-1271-004
Mirant Las Vegas, LLC	ER03-160-002
Mirant Lovett, LLC	ER01-1272-003
Mirant New England, LLC	ER01-1274-004
Mirant NY-Gen, LLC	ER01-1275-003
Mirant Oregon, LLC	ER02-1331-003
Mirant Sugar Creek, LLC	ER02-900-002
Mobile Energy, LLC	ER01-480-002
Mohawk River Funding III, L.L.C.	ER02-137-002
Mohawk River Funding IV, L.L.C.	ER02-1582-001
Moraine Wind LLC	ER03-951-003
Mountain View Power Partners II, LLC	ER01-1336-003
Mountain View Power Partners, LLC	ER01-751-004
MS Retail Development Corp	ER03-1315-002
MxEnergy Inc.	ER02-737-001
New Mexico Electric Marketing, LLC	ER02-77-001
New York State Electric & Gas Corporation	ER99-221-006
Newark Bay Cogeneration Partnership, L.P.	ER00-2887-003
Nine Mile Point Nuclear Station, LLC	ER01-1654-004

Northern Iowa Windpower II LLC	ER02-2085-001
Northern Iowa Windpower, LLC	ER02-257-001
NorthWestern Energy Marketing, LLC	ER02-41-004
NYSEG Solutions, Inc.	ER99-220-009
Ocean Peaking Power, LLC	ER02-2080-001
ODEC Power Trading, Inc.	ER01-2783-005
Oleander Power Project, Limited Partnership	ER00-3240-002
ONEOK Energy Marketing and Trading Company, L.P.	ER98-3897-009
Ontario Energy Trading International Corporation	ER02-1021-003
Orion Power MidWest, L.P.	ER00-1463-003
Orion Power New York GP II, Inc.	ER02-2435-002
Pacific Gas and Electric Company	ER03-198-001
Pacific Northwest Generating Cooperative	ER97-504-010
PacifiCorp	ER97-2801-004
Pajaro Energy Center, LLC	ER02-2231-001
Pawtucket Power Associates Limited Partnership	ER02-580-002
Peak Power Generating Company, Inc.	ER03-372-001
Peaker LLC	ER03-191-001
Pennsylvania Windfarms, Inc.	ER02-2166-002
Perryville Energy Partners, L.L.C.	ER03-1370-002
Phelps Dodge Energy Services, LLC	ER03-568-002
Philbro, Inc.	ER95-430-025
Phoenix Wind Power LLC	ER02-417-001
Pinpoint Power, LLC	ER03-845-001
Pleasants Energy, LLC	ER02-26-003
Power Contract Finance, L.L.C.	ER02-1485-004
Power Contract Financing II, Inc.	ER03-1109-003
Power Contract Financing II, L.L.C.	ER03-1108-003
Power Contract Financing, L.L.C.	ER03-838-002
Power Development Company, L.L.C.	ER02-1885-001
Power Provider LLC	ER01-1949-003
Power Receivable Finance, LLC	ER03-1151-001
Powerex Corp	ER01-48-003
PPL Edgewood Energy, LLC	ER02-1749-001
PPL Great Works, LLC	ER99-4503-003
PPL Shoreham Energy, LLC	ER02-1747-001
PPL Sundance Energy, LLC	ER02-1325-001
PPL University Park, LLC	ER02-1327-002
PPM Energy, Inc.	ER95-1096-023

Progress Ventures, Inc.	ER01-2928-004
Quark Power L.L.C.	ER97-2374-015
Quest Energy, LLC	ER03-674-001
Reliant Energy Bighorn, LLC	ER03-745-001
Reliant Energy Choctaw County	ER03-618-001
Reliant Energy Electric Solutions, LLC	ER03-382-001
Reliant Energy Hunterstown, LLC	ER01-3036-003
Reliant Energy Seward, LLC	ER01-3035-003
Reliant Energy Solutions East, LLC	ER02-1762-001
Reliant Energy Solutions West, LLC	ER03-81-002
Renaissance Power, L.L.C.	ER01-3109-003
Riverside Energy Center, LLC	ER03-49-001
Riverview Energy Center, LLC	ER03-611-001
RockGen Energy, LLC	ER99-970-003
Rocky Mountain Energy Center, LLC	ER03-1288-001
Rolling Hills Generating, L.L.C.	ER02-553-002
Rumford Power Associates, L.P.	ER00-2080-002
RWE Trading Americas, Inc.	ER02-308-001
San Joaquin Cogen Limited	ER00-1517-003
Select Energy New York, Inc.	ER02-556-002
SESCO Enterprises, LLC	ER03-295-001
Shady Hills Power Company, LLC	ER02-537-003
Shell Energy Services Company, L.L.C.	ER99-2109-005
Sithe Energy Marketing, L.P.	ER02-2202-004
Sithe/Independence Power Partners, L.P.	ER03-42-003
Somerset Windpower, LLC	ER02-258-001
South Glens Falls Energy, LLC	ER99-1261-005
South Point Energy Center, LLC	ER01-2887-002
Southern California Edison Company	ER02-2263-002
Southern California Water Company	ER02-2400-001
Southaven Power, LLC	ER03-922-002
SOWEGA Power LLC	ER99-3427-005
St. Paul Cogeneration, LLC	ER03-1212-003
State Line Energy, L.L.C.	ER02-1342-002
State Line Energy, L.L.C.	ER96-2869-006
SWEPI LP	ER02-2558-001
Tenaska Alabama Partners, L.P.	ER00-840-003
Tenaska Power Srevices Co.	ER94-389-023
Termoelectrica U.S., LLC	ER03-175-005

Texas Electric Marketing, LLC	ER00-1780-003
Tiverton Power Associates, L.P.	ER00-1171-002
Troy Energy, LLC	ER02-25-003
Twelvepole Creek, LLC	ER01-852-002
TXU Pedricktown Cogeneration Company LP	ER02-820-001
TXU Portfollio Management Company LP	ER99-3333-005
UAE Lowell Power LLC	ER99-1744-004
UAE Lowell Power LLC	ER02-360-001
UBS AG	ER02-973-001
UGI Development Company	ER99-2817-002
UGI Utilities, Inc.	ER02-2042-002
Unitil Power Corp.	ER02-999-003
Unitil Resources, Inc.	ER97-2462-013
University Park Energy, LLC	ER01-557-002
Utility Contract Funding, L.L.C.	ER02-2101-001
Vandolah Power Company, L.L.C.	ER02-1336-002
Vineland Energy LLC	ER03-1283-002
Vineland Energy, LLC	ER03-1283-003
Virginia Electric and Power Company	ER00-2839-001
Walton County Power, LLC	ER03-28-001
Washington County Power LLC	ER03-398-002
Waterside Power, L.L.C.	ER02-1884-001
Waymart Wind Farm L.P.	ER03-1375-001
Wellhead Power Gates, LLC	ER01-3118-002
Wellhead Power Panoche, LLC	ER01-3117-002
West Georgia Generating Company, LLC	ER02-1052-002
Wolf Hills Energy, LLC	ER01-559-002
Wolfskill Energy Center, LLC	ER02-2232-001
Wolverine Power Supply Cooperative, Inc.	ER98-411-011
WPS Beaver Falls Generation, LLC	ER03-54-001
WPS Empire State, Inc.	ER02-2199-001
WPS Niagara Generation, LLC	ER03-55-001
WPS Syracuse Generation, LLC	ER03-56-001
Wrightsville Power Facility, LLC	ER02-1028-002
Xcel Energy Services	ER01-205-003
Xcel Energy Services	ER01-2941-001
XL Weather & Energy Inc.	ER02-2610-001
Yuba City Energy Center, LLC	ER02-1512-001
Zion Energy LLC	ER02-1319-001

ORDER DENYING PROTEST

(Issued March 4, 2004)

1. On January 6, 2004, Californians for Renewable Energy (CARE) filed a motion to intervene and protest in the above-referenced dockets. In this order, the Commission denies CARE's protest. This order benefits customers by ensuring that collateral attacks on Commission orders may not be made through protests to compliance filings.

Background

2. On November 20, 2001, the Commission issued an order in Docket No. EL01-118-000 in which it proposed to condition all new and existing market-based rate tariffs and authorizations to include a prohibition against "anticompetitive behavior" and "the exercise of market power."¹ In the Initial Order, the Commission stated that it did not propose a specific date by which each seller must make a compliance filing, but instead proposed to direct each seller to include the required revision to its tariff the next time that it filed an amendment to the tariff or sought continued authorization to sell at market-based rates. The Commission stated that it intended to condition all future market-based rate tariffs and authorizations in a similar manner.

3. After issuance of the Initial Order, the Commission began including specific language in market-based rate orders stating that acceptance is subject to any tariff condition adopted by the Commission in Docket No. EL01-118-000 and directing the applicant, within 15 days of the date of issuance of an order adopting a tariff condition in Docket No. EL01-118-000, to make a compliance filing to amend its tariff accordingly.

4. In an order issued on November 17, 2003 in Docket Nos. EL01-118-000 and EL01-118-001, the Commission approved six market behavior rules to be included in all market-based rate sellers' tariffs and authorizations.² The Commission stated that the market behavior rules for all market-based rate sellers would become effective 30 days from the date of issuance of the November 17 Order. In the November 17 Order, the Commission directed market-based rate sellers to include the market behavior rules at such time as they file any amendment to their market-based rates tariff or (if earlier) at

¹ Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations, 97 FERC ¶ 61,220 (2001) (Initial Order).

² Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations, 105 FERC ¶ 61,218 (2003) (November 17 Order).

such time as they seek continued authorization to sell at market-based rates (e.g., in their three-year update filings).

5. On December 1, 2003, the Commission issued a notice of extension of time, until December 17, 2003, for the date for compliance filings for certain market-based rate sellers that were previously directed, in prior orders, to amend their tariffs within 15 days of the date of issuance of an order adopting a tariff condition in Docket No. EL01-118-000, et al.³

6. The Commission clarified, in an order issued December 11, 2003, that the December 17 deadline applied only to the market-based rate sellers that were previously directed, in prior orders, to amend their tariffs within 15 days of the issuance of an order adopting a tariff condition in Docket No. EL01-118-000 and included an appendix listing these entities.⁴ On December 15, 16, and 17, 2003 numerous companies submitted filings in compliance with the November 17 Order.⁵

7. Notice of the compliance filings was published in the Federal Register, 68 Fed. Reg. 75,498-50 (2003), with comments, protests, and interventions due on or before January 14, 2004 (December 23 Notice). CARE filed a timely motion to intervene and protest.⁶

Discussion

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2003), CARE's timely, unopposed motion to intervene serves to make CARE a party to the compliance proceedings.

³ See Notice of Extension of Time, Docket Nos. EL01-118-000 and EL01-118-001, issued December 1, 2003 (December 1 Notice).

⁴ See Order Clarifying Prior Notice, Docket Nos. EL01-118-000 and EL01-118-001, issued December 11, 2003.

⁵ See Notice of Filing in Docket Nos. ER03-1372-002, et al.

⁶ In its filing, CARE included Docket Nos. EL01-118-000 and EL01-118-001 among the list of captioned dockets. However, the Commission's December 23 Notice, to which CARE responds, did not solicit comments, protests and interventions in Docket Nos. EL01-118-000 and EL01-118-001. Instead, the December 23 Notice listed only the docket numbers for the individual proceedings in which compliance filings were made. Accordingly, we consider CARE's filing as having been made in the latter dockets.

9. In its protest, CARE contends that the market behavior rules “are not transparent enough for consumer and ratepayer stakeholders to know sixty days in advance what the rate will be, and tariff revisions still allow Sellers to charge rates that are not just and reasonable.”⁷ CARE asserts that the Commission’s approval of the November 17 Order is an “illegal abuse of discretion and a prejudicial act.”⁸

10. CARE’s protest does not dispute the compliance filings of the November 17 Order that were noticed in the December 23 Notice. Rather, CARE challenges the merits of the Commission’s underlying directive in the November 17 Order that market-based rate sellers include the market behavior rules in their tariffs. This is a collateral attack of that order which is beyond the scope of these compliance proceedings.⁹ Therefore, we deny CARE’s protest as an impermissible collateral attack on the Commission’s November 17 Order.¹⁰

The Commission orders:

CARE’s protest is hereby denied.

By the Commission. Commissioner Kelly not participating.

(S E A L)

Linda Mitry,
Acting Secretary.

⁷ Protest at 12.

⁸ Protest at 14-15.

⁹ We note that CARE did not intervene in Docket No. EL01-118, and did not seek rehearing of the November 17 Order. In addition, we cannot treat CARE’s protest in this proceeding as a request for rehearing, since it was filed well after the date on which rehearings were due. See 16 U.S.C. § 8251(a) (2000).

¹⁰See Occidental Chemical Corporation, 104 FERC ¶ 61,142 at P 10 (2003), order on reh’g, 105 FERC ¶ 61,348 (2003); Tennessee Gas Pipeline Company, 105 FERC ¶ 61,120 at P 55 (2003).